

BRITISH COLONISTS AND IMPERIAL INTERESTS IN LOWER CANADA

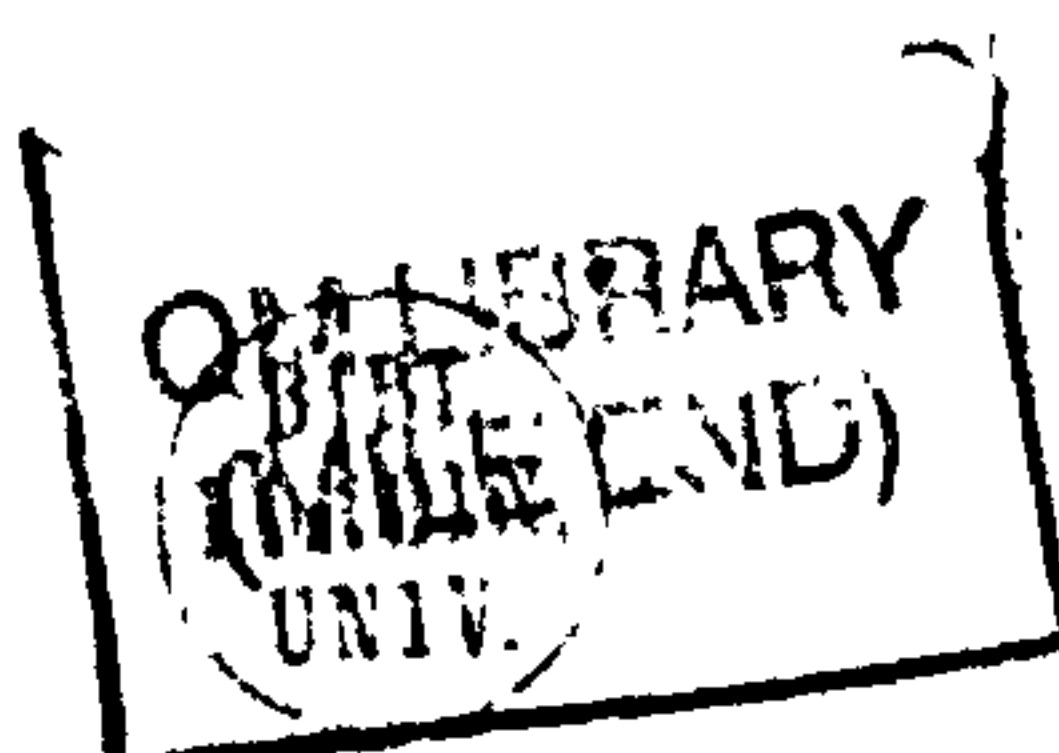
1820 to 1841

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ABSTRACT

Lower Canada occupied a strategic position in Britain's policies for the defence, trade and settlement of British North America. The smooth development of these three interests was threatened by the autonomist ambitions of the colony's French-speaking (Canadien) leaders. Between 1820 and 1841 British policy had to cope with the collapse of traditional canadien élites as reliable supporters of imperial interests, the persistent hostility of the new canadien leadership towards commerce and immigration, and the increased restlessness of the growing minority of English-speaking colonists.

During the 1820s, the Governor alienated the bureaucracy, the traditional social leaders of French Canada, and the elected Assembly by his encouragement of diverse efforts to anglicize the colony's administration, institutions and civil law. The political divisions of the British colonists encouraged the Canadiens to seek greater autonomy for the colony, and British policy after 1828 favoured concession ^{to} of the Canadiens as the best way to smooth out political obstacles to social and economic change. But increased immigration alarmed the Canadiens, created a larger and more complex British community in the colony, and made the imperial government more anxious to conciliate the British than the French colonists after a few of the latter revolted in 1837-38.

Economic and demographic pressures were important but the debate over political legitimacy was a major element too. Belief in prescriptive legitimacy faded during the 1820s; the growth of liberal attitudes in the British part of the population brought impatience towards the colony's antiquated civil law and hastened the creation of suitable conditions for the growth of a modern commercial state. Britain imposed a new constitution giving greater powers to the fast-growing colony of Upper Canada and to the British merchants and settlers of Lower Canada.

Preface

This thesis grew out of a belief that the study of Lower Canada before 1841 could profit from further scrutiny of the imperial context in which Canadian society evolved, and that the devolution of the formal Empire can be better understood through studies of groups in the colonies who resisted decentralization. The thesis traces political movements among English-speaking colonists in Lower Canada during two of the three decades before the granting of responsible government, in an effort to explain why colonial autonomy was a socially divisive issue, yet self-government soon began to work with the active co-operation of a majority of both the ethnic communities into which the colony was divided.

To write the story of the "losers" in a long-dead historical controversy is to risk criticism for espousing a lost and perhaps disreputable cause. Much that was said and done by the advocates of British hegemony in the valley of the St. Lawrence before 1841 strikes the modern reader as strange and disagreeable. In this study, such attitudes are frequently quoted or paraphrased at length. This has been done in no spirit of retrospective partisanship, but because the British of Lower Canada spoke and acted out of conviction as well as self-interest; and because their attitudes were not illogical or extraordinary in terms of contemporary ideas and experiences in the English-speaking world. This is not a work of advocacy, but chiefly a study of attitudes and the contexts in which they evolved.

Most of the terms used in this study were current in Lower Canada or in Britain before 1841. "Canadiens" were French-speaking natives of the colony who had at least one ^{ancestor} parent born there before 1759; "Britons" or "British

colonists" were terms loosely applied to English-speaking colonists of all other origins, including those born in the United States and Canada itself. The terms "tories" and "reformers" have been used sparingly; until about 1834 they were widely used in the colony to refer respectively to supporters and opponents of the colonial executive.

"Patriotes" after 1826 were advocates of colonial autonomy and of the deliberate preservation of the French language and civil law of Lower Canada. "Bureaucrats", a term of even greater abuse then than now, were colonists of any origin who held executive or judicial office, or had profited conspicuously from advocating the executive's prerogatives rather than the claims of the elected Assembly. An MPP is a member of the Provincial Parliament, as it was called by most contemporaries.

The writer has profited greatly from the advice and encouragement of the supervisor of this thesis, Professor Glyndwr Williams, and in general from discussions in the Seminar in British Imperial History at the Institute of Historical Research between 1973 and 1976. Acknowledgement must also be made to the helpful staff of the Institute, and to the staffs of more archives and repositories than there is room here to mention; they are listed in the bibliography. Particular mention is due to the Public Record Office in London, the Scottish Record Office in Edinburgh, and the Public Archives of Canada in Ottawa. A doctoral fellowship from the Canada Council made this work possible; additional valuable assistance was received through educational leave and allowances from Parks Canada, Department of Indian and Northern Affairs. This financial assistance, and helpful advice from many quarters, is gratefully acknowledged.

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Table of Contents

	<u>Page</u>
Abstract	2
Preface	3
PART I	
1 Province and Nation: Problems of Imperial Rule	7
PART II	
2 Imperial Control and Local Leadership, 1820-1830	34
3 The Struggle for Control	58
4 Constitutional Breakdown, 1825-1828	88
PART III	
5 The 'British Party' Disowned - the Select Committee of 1828	120
6 The North American Colonial Association	143
7 The British American Land Company	173
8 The Constitutional Associations of Lower Canada, 1834-1838	204
9 The Special Council of Lower Canada, 1838-1841	234
PART IV	
10 Racism, Assimilation, and Reunion of the Canadas	264
11 Lower Canada and Imperial Interests	283
Abbreviations used in endnotes and bibliography	287
Endnotes	288
Bibliography	340

PART I

Chapter 1 Province and Nation: Problems of Imperial Rule

i

The activities of British colonists in Lower Canada from 1821 to 1841 provide a challenging test for the theory that Britons overseas acted as agents of imperial expansion. This hypothesis, familiar to modern scholarship, was equally commonplace to contemporaries, and when British capitalists from Lower Canada spoke, for instance, of the "Grand National Objects" of a proposed land company, they had firmly in mind the idea that though they lived in the province of Lower Canada, they were integral participants in the expansion of the British nation.¹ This idea reflected constitutional reality; it also appealed to the colonists' emotional need to belong to something more than an old-fashioned agricultural colony of half-a-million people. Valid though this colonial mentality was to immigrants and the descendants of recent immigrants, it was understandably weak in the thoughts and feelings of French Canadian^s, a tiny minority in the national scale, but a preponderant majority in the province. Nonetheless, the Canadiens did not entirely repudiate an imperial role, for as late as 1836 their leading radical spokesman, L-J Papineau, insisted that his own devolutionary policies would serve the best interests of Britain and the colonial economy, as well as the protection of his nation canadienne.² This bold assertion highlighted one peculiar aspect of the struggle between local autonomists and imperial centralists in Lower Canadian in the early nineteenth century. Each side devised policies and rhetoric to appeal selectively to certain types of pro-British feeling. The Canadiens stressed their loyal

defence of British North America against the United States in 1775 and 1812-14; the British colonists insisted on the paramount value of their own contributions to British commerce and sea power, and argued their own ability, as men of recent British extraction, to coordinate and stimulate the interests of British merchants, investors, and emigrants in North America. So each of the main political alignments in Lower Canada challenged imperial administrators, as they still challenge historians, to define what were the true interests of the empire, and to assess what groups in the colony were to be encouraged, and which held back, in the pursuit of imperial aims.

Historians have almost invariably approached these questions through studies of men and interests working towards imperial devolution. Less attention has been devoted to forces which during the same period were exerted to reinforce and reinvigorate the colonial relationship between Britain and her North American possessions. The tendency is to side with the winners, the men who triumphed in the late 1840s with the view that Britain could best be served by turning her mature colonies of settlement into self-governing if economically dependent communities. This proposition is no longer controversial; what is nonetheless regrettable is that only a few writers have been sensitive to the colonists and imperial figures who worked for the opposite cause. In the 1930s Donald Creighton expounded on the imperial perspective of the Montreal merchants, and W.P. Morrell contributed an examination of Lord Stanley's efforts to prop up the colonial system in the 1840s. More recently Peter Burroughs' work on the "colonial reformers" has drawn attention to the fact that radical opinion in Britain was not universally hostile to certain types of imperial intervention and stimulation in colonial affairs. Albert Faucher has published valuable studies of Canadian public finance and its relation to 'informal' imperialism. John Ward described

some ideological aspects of decentralisation in 1976.³ But such studies do not add up to a comprehensive view of the forces working towards a closer relationship between Britain and Canada in the crucial decades of the 1820s and '30s. There has always been a tendency to assess statesmen and political movements according to their contributions to devolution. This is often accompanied by strongly derogatory references to the so-called tories in Canada, and by scorn for French-speaking Canadians who made their peace with the British authorities before the achievement of self-government in 1849. The impression left by most writers is that Britain was too far away to exercise a wise supervision, and that opponents of devolution were antiquated and a nuisance, likely to be self-interested and offering nothing constructive to the development of Canada and the Empire. Little serious treatment is therefore afforded to the views and activities of colonial "conservatives" or opponents of devolution in Britain herself. It remains broadly true that the groups in Lower Canada which are most neglected are precisely those which believed they had a special mission to advance British interests despite Lower Canada's local traditions, and who were encouraged in that belief by influential sectors of opinion in Britain itself.⁴

ii

Over several decades after 1820, there were substantial changes in the interests which were regarded as paramount by British observers of Lower Canadian affairs, and in the groups through whom British leaders sought to control and develop the colony. Three of the distinct periods are the basis of the major divisions of this thesis. In the 1820s, the subject of part II, few British observers looked beyond the colony's role as a producer of timber and a useful bulwark against the further expansion of the United States.

It was assumed that most of the vital concerns of the colony should be administered by the British Army and by a centralized structure of British-born officials and merchants. Despite this emphasis in contemporary thought, the historical writing which covers this decade has paid scant attention to the structure and working of the colonial bureaucracy, to the Governor's efforts to reform it, or to his attempt to create a coalition in the colony which would not merely govern harmoniously and efficiently, but would encourage agricultural development and cultural progress. This Governor, the Earl of Dalhousie, made many enemies and no converts, and from the ashes of his administration rose a new imperial initiative, generated not only by his failure but by new social conditions and political alignments in Britain itself.

From 1828 to 1836 successive British ministries worked to create a coalition of leading colonists, including eminent Canadiens, through whom the Governor could manage the colony. This effort in the thirties, the subject of Part III, showed the British government was prepared to abandon its inefficient agents during the twenties, the colonial bureaucracy, and instead to court the principal Assemblymen. Administrative reforms mollified many of the colonial leaders, but rapid immigration stirred the deepest suspicions of the Canadiens, especially since the burgeoning British communities in the colony applauded the individuals who demanded the sorts of social and economic change which the French feared most. Neither administrative reform nor emigration provided the steadying influence British politicians expected, and by the end of 1836 the Cabinet was covertly preparing constitutional changes to curtail the influence of the Canadiens. Historians have given this period of compromise much of the attention it merits, but once again it is the areas which seemed most important to advancing British aims which have had least scrutiny. The

political activities of the colony's "British" party, both in the province and through emissaries to London, is important, fascinating, and almost wholly unexplored. The quick growth of the British community is usually noted only in terms of statistics and not in the context of social change, and surprisingly little has been written about the British American Land Company, which was a cardinal grievance to the popular leaders, and a source of hope and encouragement to their rivals.⁵

In the next phase, from 1837 to 1841, Britain embarked on a daring, reactionary course of assuming that the mass of the French Canadians were for the time being not fit to participate in government under free institutions. The Canadian rebellions of 1837-38, coinciding so nearly with the crisis following abolition of slavery in the West Indies, reinforced an impatience in Parliament and in Britain generally with the existence of social and political conditions in the colonies which would not have been tolerated at home. Parliament reacted to the rebellion by suspending Lower Canada's constitution. Imperial aims were to be entrusted to the 'loyal' élite, which largely meant the British élite, but with far closer supervision from the Colonial Office and Parliament itself than in the period before 1828. Paradoxically, the activities of government and its colonial agents in this period are among the least studied of the era. Historians sympathetic to the élite gloss over this stage when its power was most naked and unpopular; students of self-government and of electoral politics find the period a wasteland. The concurrent proceedings in England to prepare a new constitution for both Canadas have drawn attention away from internal colonial events. So apart from Lord Durham's mission and a handful of specific issues like the abolition of seigneurial tenure in Montreal,⁶ the legislative history of Lower Canada during the rebellion years has almost escaped attention. Part IV of this thesis

will concern itself with the most important aspects of this period which provided the transition between two stages of constitutional change.

iii

Interleaved with these specific issues, belonging to no particular period, was the competition between Britain's English-speaking and French-Canadian colonial subjects in the St. Lawrence River valley. The resources of this region were seen by both groups as vital to the interests of their respective nationalities, and the historians of each side have depicted a unique social environment structured and divided by mutual suspicion and exclusiveness. Conflict between the two cultures has often been used as a scapegoat for the shortcomings of French-Canadian society. The merchant class, predominantly of British origin, is regularly accused of two apparently hostile aims towards the Canadiens. First, the merchants are accused of wishing to crush everything that set the Canadiens off as a distinct society. Yet the English-speaking businessmen of Lower Canada are also accused of trying to keep the Canadiens permanently separate and backward as a pool of cheaply exploitable labour. The two accusations cannot be simultaneously true, for total assimilation is diametrically opposed to a caste system. The desire of the British colonists to assimilate the Canadiens is well documented though often exaggerated or distorted. But as for the other charge, the following pages have been written in full agreement with the recent assertion of Fernand Ouellet, a prominent French-Canadian historian, that in the 1830s "il n'existe pas non plus une coalition du gouvernement métropolitain et des entrepreneurs en vue de maintenir les Canadiens français dans l'infériorité économique et la servitude politique."⁷ Ouellet's statement is

cautious and negatively framed -- the remarkable thing is that it needed to be made at all.

Historians nowadays realize that the struggle between autonomists and centralists in the 1820s and thirties can no longer be discussed in terms of whether the Canadiens were feudal and at bottom disloyal, or whether the British attitude was domineering and rooted in disrespect for liberty. It is generally realized that political partisanship was deeply entwined with the French-Canadian preoccupation with survivance, while the British colonists, as contemporaries pointed out, were interested in assimilation largely because they thought survivance incompatible with economic stability and progress. One debate concerns just what survivance is. For almost a century after the attainment of local self-government in 1849, French-Canadian historians lauded as a great achievement of the Canadien national will, the survival of the French language and Catholic religion, the Canadiens' continuing possession of the great mass of Quebec's farmland, and the preservation of the distinctive traditional civil law. This mood of self-congratulation was undermined by historians more conscious of economic considerations, and in 1957 Michel Brunet wrote that the survival of an indentifiably French society on the banks of the St. Lawrence was no more than a normal and predictable sociological fact. Inertia alone defeated the feeble forces of linguistic and cultural assimilation. He argued further that assimilation, for a society as for an individual, is the loss of freedom to act by oneself. The survivance of a society is "la mesure où elle conserve un minimum de liberté d'action collective coordonnée, constante, et dynamique." By this criterion, French Canada was assimilated, partly in 1763, totally by 1849.⁸

Despite the vigour of this modern school of thought, the rustic optimism of the nationalists survives in the writings of some historians, chiefly of British origin.

W.G. Ormsby wrote as recently as 1969 that social change after 1841 was sweeping, but not assimilative. "It was accomplished without the sacrifice of any of French Canada's basic values."⁹ Such dogmatism begs many questions, chiefly by assuming that the values lost were not basic ones. To make this assumption Ormsby must gloss over not only the soul-searching of Brunet, but the vociferation with which many young leaders in the fifties linked their efforts to those of the great leader of an earlier era, Papineau, in repudiating the compromises made by LaFontaine and his colleagues in the forties. But what is more important, the continuing debate on what survived invites a thorough re-examination of more fundamental questions -- what was threatened, by whom, and for what local and imperial reasons?

Scrutiny of this question also invites an equally careful examination of a more neglected facet of colonial politics, namely the desire of some colonists to reconcile their British nationality as far as possible with the desires of their provincial compatriots. One may still trace a genuine desire to sooth racial hostility by creating alongside the British and Protestant structures catering to the new colonists, a set of new parallel structures for French Canada. This tendency ought not to be exaggerated, but was nonetheless important; the idea of cultural dualism flowered in Lower Canada in strange places for complicated reasons. The idea that the habitants should be allowed to retain their distinctive language, religion and culture, and that the social and economic élite should be recruited from both races, was after all the basis of British policy before 1791 and it underlay the effective working of colonial self-government after the reunion of Upper and Lower Canada in 1841.¹⁰ It would therefore be naive to suppose that principle extinct between 1791 and 1841. In Britain itself, tolerance of Canadian cultural dualism seems to have been

stronger than is often represented, and there were always severe doubts about the practicability as well as the desirability of full assimilation. So it is important to decipher the progress and influence of the idea of cultural dualism as a factor in the development of British aims in Lower Canada.

The interplay of British colonists and imperial interests in Lower Canada in the 21 years after 1820 is therefore a subject whose individual parts deserve fresh attention. The administrative structure of the colony; the administration of land and immigration policies; the development of political movements among the colony's English-speaking population, and the relations between those who looked to England, and those who looked to a French colonial past for a sense of nationality -- these are all interesting themes in the development of the British empire which have been approached by historians selectively, sketchily, or not at all. What draws these themes together is their common tendency to illustrate the importance of membership in the empire to groups whose pride in British origin made them, as one of them said, a "minority under very peculiar circumstances" within a troubled province of the empire.¹¹

A French minority in British North America, and a British minority in one province -- these were the ingredients of the most violent episodes of Canada's internal history, yet they put Lower Canada in the fore in the peaceful attainment of self-government in the "second empire". Superficially it has seemed that Britain gave the Canadiens (and their Upper Canadian allies) peacefully in 1849 the same thing they had rebelled for a decade earlier. Men hounded for treason in 1837-38 were one by one elected to the provincial parliament or appointed to offices under the Crown; exiles were pardoned and allowed to return, and at length the Legislature passed the Rebellion Losses Bill.

The debate on this measure turned into an elaborate justification of the rebellion, as old reformers boasted of their opposition to Britain in the thirties and one recent convert, once high in the Bank of Montreal, declared that he wished he had fought for the rebels instead of against them.¹² The traditional friends of the imperial connexion were outraged and frightened; angry mobs stoned the Governor-General and burnt the provincial Parliament. But instead of a new uprising, the troubles of 1849 ushered in decades of mellow tranquillity. William Gladstone, who led an abortive campaign to have the Bill disallowed at home, said in 1855 that "we were obliged to put our dignity in our pockets on that occasion."¹³ Perhaps by 1855 only dignity seemed to have been at stake; but though the Bill itself was innocuous, the rhetoric used to pass it struck at the legitimacy of everything done in Lower Canada by and on behalf of the Empire for a dozen years.

iv

Historians have been deeply impressed by this apparent confirmation of the legitimacy of the rebel cause, but have been far from unanimous in defining the roots of the original conflict. Some have followed the earliest major historian of the "Late Province of Lower Canada", Robert Christie, in ascribing the troubles to "prejudices of national origin" on both sides.¹⁴ This analysis has had more appeal to subsequent French-Canadian historians than to those writing in English; the notion of conflict based on race-prejudice tasted too bitter for the palates of Anglo-Canadians. They tended to concentrate on two other determining factors, the triumph of liberal ideology, and economic development. During this century most histories of the controversy were written in what Canadian historiography has termed the

"whig" tradition, a narrative of the struggle between liberty and oligarchy in which liberty ultimately triumphed, not actually over British interests, but over obstructions British statesmen raised before they were wise enough to perceive where those interests really lay. The chief weakness of this tradition is that it is apt to blur the picture of the extremes to which the reformers in the 1830s were prepared to go, and to exaggerate the defeat of the old oligarchies by popular power in the 1840s. The strongest rival to the "whig" tradition emerged in 1937 in Donald Creighton's Commercial Empire of the Saint Lawrence. Creighton presented economic development, not constitutional liberty as the great bequest of the nineteenth century to the twentieth. In this view the imperial centralists, as progressive capitalists, are the heroes while the parochial agriculturalists, suspicious of commerce and of public debt, are the villains. But Creighton, like the "whigs", did not lift his sights beyond the economic and political watershed of the late 1840s, and he consequently confirmed the old view of who were the winners, and who the losers, in the struggle for control of the St. Lawrence basin. Creighton, moreover, forgot Butterfield's dictum that one does not write balanced history simply by adding the speech for the defence to that of the prosecution.¹⁵ The historians of responsible government had expounded on the political wickedness of the British colonial bureaucrats; Creighton took up the other theme of Lord Durham's Report, the economic stupidity of the French Canadians. But Creighton rejected both racial and ideological explanations of the root of the troubles. Creighton, like Durham, overstated the racial homogeneity of the two economic schools in the colony, and detected economic determinism lurking behind a facade of racial and ideological rhetoric. Creighton generalized with breath-taking audacity, and superficial accuracy, that the struggle for control of the pace and direction of social change was "an expression

of a fundamental divergence in the attitudes of the French Canadians and their opponents. The French Canadians... were in most essential respects Frenchmen of the ancien régime; the British... were typical products of the age of the industrial revolution and of laissez faire."¹⁶ In keeping with this interpretation, the Commercial Empire virtually ignored British radical businessmen like James Leslie and John Neilson, and a host of French-Canadian capitalists. Creighton identified national origin too closely with economic thought, and thereby failed to demonstrate the processes which made it possible for capitalists to co-operate with the Canadiens after 1841.

None of these approaches -- racial, ideological, or economic -- leads to an irresistible judgement on the contemporary issue -- which colonial party ought legitimately to have governed? Was British rule immoral, or merely clumsy? Was canadien resistance to that rule laudable, or tragically misdirected? Historians' concentration on ideological themes has largely supported the devolutionists against the centralists, for it is difficult for anyone raised in the twentieth century to feel much instinctive sympathy with the prescriptive arguments used by the imperial centralists. The latter's viewpoint received its first sensitive modern treatment as long ago as 1922 in an article by K.L.P. Martin, who argued that responsible government as achieved in 1849 was more nearly democratic than anything that had existed in England when Durham wrote his Report. Popular power was not legitimized first in Britain and then belatedly in Canada; it was the gradual erosion of royal power in Britain that made responsible government possible in Canada.¹⁷ Historians of Martin's generation were less impressed by his argument than by the economic one, that the growth of free trade ideas made Britain indifferent to the retention of traditional prescriptive powers in the North American colonies.¹⁸ But Martin's point was revived in 1976

by John Ward, whose Colonial Self-Government provided a wealth of detail surrounding the movements which Martin traced in outline. Ward organized his narrative around the gradual ascendance of what he called the principle of "representation" over the principle of prescription. This analysis is likely to be accepted as part of the context in which responsible government was peacefully achieved, rather than as the root cause of the achievement.¹⁹ But Ward's seeming lack of curiosity about the political ideas of the British centralists in Lower Canada unmasks his reluctance to pursue some of the important ramifications of conflicting theories of legitimacy. These may be summarized briefly: the old prescriptive constitution already contained a representative branch, which itself enjoyed rights by prescription. The property interests which sought and received representation in Britain in 1832 were similar to the interests which were disenfranchised in Lower Canada because that colony had a democratic rather than a whiggish franchise. Prescription was not absolute in Britain before 1832, and representation thereafter was a feeble counterpart to the North American version. In Lower Canada, indeed, ideological debates were more likely to take on French or American hues than to clothe themselves in purely British colours, and it is more profitable to talk of prescription vying not with representation but with the less ambiguous entity, popular sovereignty.

But D.G. Creighton's work, so hostile to the patriote exponents of popular sovereignty, is nonetheless no defence of prescription. Nor is this surprising; the nineteenth century was concerned with theories of the provenance of rights and liberties; the middle part of the twentieth was more concerned with economics and efficiency.²⁰ By the time Creighton wrote, a government could call itself legitimate not only by elective mandate or ancient prescription, but merely on pragmatic grounds, reduced to the lowest common denominator in the saying "He made the trains run on time." Creighton's

work reveals a little of the same spirit -- Peter McGill and George Moffatt would make the trains run on time in a province where Papineau would not encourage them to run at all. No doubt Creighton would repudiate such an idea as the basis of a political philosophy, but the uneven balance between economic and constitutional argument in his book helps explain why modern scholars have rarely echoed Creighton's sympathetic treatment of the Montreal business class. Nonetheless the writing of Canadian history has been deeply influenced by Creighton's economic perspective. In French Canada especially, the debate continues: did the centralists or the autonomists have the better plans for Lower Canada's economic future?²¹ Such purely economic analysis lies beyond this study, but it is important to recognize Creighton's major point, that some of the discussion of legitimacy in Lower Canada was based on pragmatism, which subordinated and manipulated abstract political theory. This does not, however, mean that such theories were worthless, or that they were universally linked to self-interest. Moreover, it will be argued that cultural conflict was aggravated by the linking of pragmatism with liberal ideology, as well as by the traditional links between economic interests and prescriptive political theories. While the debate over legitimacy is not construed as the determining factor in the troubles of the era, it will be explored in greater detail than previous writers have thought worthwhile.

v

Three basic aims underlay British policy in Lower Canada in the period 1820-41: possession of Canada was important to British defence; it was advantageous to British trade; and it offered a way to settle British emigrants within the empire, where they were not lost to the Crown as

subjects or to the manufacturers as customers. There was a broadly-based conviction that the Canadas were economically too primitive to be anything but colonies, and that if Britain lost them they would be drawn irresistibly to the United States or, in a more far-fetched view, back to France. This gave an expedient legitimacy to the British presence in Lower Canada to complement the prescriptive legitimacy unequivocally bestowed by the Treaty of Versailles by which France in 1763 ceded Canada to Great Britain. The pursuit of imperial aims in Lower Canada was rarely arbitrary, though frequently insensitive. There is a continuous thread from 1763 down to 1849 of efforts to rule the colonists through their own natural leaders. Even such benevolent intentions could founder on Britain's misunderstanding of who those natural leaders were. Popularity alone was never considered sufficient evidence of leadership, and there was a distressing but understandable tendency in Britain to assume that the colonists who were best disposed to Britain were the natural leaders, however small or shabby a group they might at certain periods be.

There was nothing inherently vicious in the Lower Canadian constitution. Ridicule was heaped upon the system in the thirties by Lord Durham and the 'colonial reformers' who called representative government without responsible ministers equivalent to a fireplace without a chimney. But in some colonies like New Brunswick most influential elements in the population pulled in the same direction and constitutions similar to that of Lower Canada worked tolerably well. The Governor's office differed radically from that of the American president in only one essential respect: the Governor was never chosen by the people. But most of British opinion and many colonists regarded his responsibility to a power outside the colony as perfectly natural. Lower Canada had municipal self-government within the greater British nation, and (before 1832) its half-million people might be

considered to be virtually represented in Parliament in roughly the same way as numerous English town-dwellers. Lower Canada's relation to Britain was more nearly parasitic than symbiotic. Canada relied on British capital for development, on British tariffs for a market, and on British taxes for defence and major public works. It was very much to the point to inquire how Britain should be represented in the provincial régime in proportion to the amount of colonial expenditure her taxpayers provided. The answer lay in having an executive responsible to the British government, and a distinguished Legislative Council which could see at first hand the needs of the colony without being blind to the interests of broader imperial policy. These were the corner-stones of the imperial presence in Lower Canada before 1841; but they were intended to support an edifice of constructive interaction between the executive and all the powerful and influential elements in colonial society.

The early policy was to enlist the support of the clergy and the well-to-do seigneurial class, two groups who were thought to enjoy the confidence of the people and who, by judicious imperial protection of their property rights, religious observances and civil law, were generally averse before 1820 to opposing the government publicly. This was a plausible policy, for the seigneurs at least were an element in which conservative social views were linked to an underlying disposition to let economic interests dominate public affairs; as for the clergy, it was broadly assumed throughout Europe and America, among both protestants and Catholics, that Roman Catholicism was a buttress to hierarchical as opposed to popular institutions.²² But the imperial policy of supporting the traditional canadien élites alienated the second group who might have been considered natural leaders, the merchants. These were mainly incomers, generally Scottish, who had taken the places of French merchants who left after 1763, and who out-traded many of those who

remained.²³ The merchants resented the retention of a commercial law which was unfamiliar to them, they considered the seigneurial tenure an obstacle to the free flow of capital through investment in land and mortgages, and they wished to see new taxes levied on property rather than on trade. About 1807 the policy of the administration at Quebec shifted towards appeasement of this group, whose importance swelled with the growth of the colonial timber trade during the Napoleonic blockade of Baltic ports. From about 1812 merchants were installed in increasing numbers in the Executive and Legislative Councils, and even in the bureaucratic offices which had hitherto been given to Canadiens or British-born friends of the ministries at home. But increasingly after 1807 the colonial electorate began to produce its own leaders from outside the traditional classes favoured by Britain. They were chiefly lawyers and notaries, deeply interested in the agrarian economy which still dominated huge parts of Lower Canada, and indifferent or even hostile to trade. By 1815 at the latest the colony probably had enough educated professional men that it could have afforded to follow the growing British practice of satisfying ambition by rotating men in the highest offices. Unfortunately the "outs" in the colony often seemed more gauche and irresponsible than the "ins" (who were their equals if not their superiors in wealth and education.) Furthermore, imperial administrators and even Governors were apt to underestimate the size of the pool of talent; and in Britain itself the distinction between secure civil service appointments and insecure political ones had not yet been clearly drawn, even up to the level of cabinet office.²⁴ So during the first half of the twenties prior support for the colonial executive became a test of a candidate's fitness for office, and a core of hardened anti-bureaucrats grew in the Assembly and the liberal professions. It was to this group that ministries after 1828 addressed themselves,

recognizing the professionals as a group of natural leaders and trying to enlist them by patronage and administrative reforms into support for the imperial government and its relatively modest aims.

It is worth stressing that these aims were, indeed, quite modest. Ill-advised efforts had been made in the early years of the French revolutionary wars to abrogate seigneurial tenure and even to undermine the Catholic Church by establishing Protestant schools, but on the whole these gestures by local zealots received little countenance from Britain and if the Governor acted against the survivance of local customs, he was likely to lose in the effort the support of either the imperial authorities, as in 1810, or of the local bureaucracy, as in 1823-5. Survivance was considered at worst a transitory phenomenon which economic forces would erode, and at best a positive aspect of the Canadiens' hatred for the Americans and consequent dependence on Britain. Some sort of dependence was taken for granted. The tendency was strong in the colony to regard self-government as far-fetched, and the same attitude was general in Britain, though it waned with time. Early in 1828, a young official at the Foreign Office proposed Canadian self-government to the British Minister in Washington, but did so with apparent certainty that his ideas would earn him a rebuke.

The real policy in Canada should be to open their institutions as much as possible, and press on the moment of their entire independence on Gt. Britain.... A Colony like Canada must in due time attain its majority, and escape from the Controul of the Mother Country; and the more we stimulate its advances to puberty, the better will its inhabitants be affected towards us, when the moment of its emancipation arises....

Does this sound like high treason and lèse politique to you?²⁵

It would be difficult to find, in that era, from so responsible a source, so strong an endorsement of colonial self-government; yet within a decade the same sentiments were being expressed by the permanent undersecretary at the Colonial Office. In 1836 James Stephen wrote, dissecting a delicate question with bureaucratic finesse:

They are already assuming a distinct national character; and the day cannot be far remote when an Independence, first real, and then avowed, will take the place of the present subjection of these Provinces to the British Crown.... A forecasting Policy would appear to suggest that provision should be deliberately, though of course unavowedly, made for the peaceful and honourable abdication of a power, which ere long it will be impossible to retain; and for raising up on the North American Continent a counterpoise to the United States.²⁶

About the same time Lord Palmerston raised the same question in Cabinet and "expressed the opinion which... was... generally acquiesced in that our great object ought to be to prevent a contest which would bring disgrace and defeat upon us and not to dream of keeping the connectⁿ forever." Yet this general agreement amongst ministers produced only instructions to the Governor to continue his efforts to get a consensus in favour of policies the government had pursued since 1828. But after 1836, views changed rapidly as the rebellions provided the occasion for creating an Assembly with a British majority, and the prospects of war with the United States faded because of two key boundary settlements in 1842 and 1846. By 1850 an important British financier, Thomas Baring, was advising Lord Grey that nothing could be more disadvantageous to the colony than its existing constitutional limbo. European investors had more confidence in American securities simply because the United States were divorced from Europe:

As long as Canada is a colony of Great Britain there can be no confidence that the Colony will not be directly or indirectly affected by the influence of the policy of the mother country.... I do not know of a single instance of investment for foreigners in Canadian securities of any description, and all feel that tho' a separation from Great Britain or annexation to the United States might not endanger property in Canada and might even perhaps increase its value the state of transition would involve much doubt & create considerable anxiety. These feelings & fears act on English as well as foreign capitalists and certainly the British government does little or nothing to remove them."²⁷

But Baring was writing after a dozen years' turmoil in the Canadas and recent upheaval in Europe. Up to the mid-1830s, few would have been found on either side of the Atlantic, apart from the patriotes and some Upper Canadian reformers, to dispute the wisdom of John Neilson's editorial comment in the Quebec Gazette early in 1833, that colonies biting the apple of independence would awake like Adam and Eve and find themselves naked.²⁸

The first aim of British policy in Canada was defence. The Duke of Wellington summarized this neatly: "it is impossible for His Majesty's Government to withdraw from these Dominions. Whether valuable or otherwise, which can scarcely be a Question, the Honor of the Country would require that they should be defended in War." At the opposite pole in politics, John Arthur Roebuck sang a strikingly similar tune. The Americans, Roebuck wrote, must not be allowed to absorb British North America, for then the United States would be

too powerful to be just - no matter how wisely fashioned may be her institutions, how just her

laws, her citizens are human beings, and they like the rest of mankind when so powerful as to be above responsibility, will quickly be tyrannical.... Give this nation the navigation of the St. Lawrence, sketch their dominion over the whole or nearly the whole of... N. America, and they will while unapproachable themselves be able with deadly efficiency to attack and to injure the rest of the world. Create a check to this power by still making the St. Lawrence the frontier of its dominions and by laying the foundations of a northern confederation of states, formed of our present North American possessions, and you give mankind the best human guarantee for the moderation and peaceful habits of the United States. The time must come, I do not say that it is come when our present colonies will be independent states - and on our conduct now will decide whether they are to be added to the already too formidable United States, or form another and separate confederation.²⁹

Commercial interests connected with the Canadas were also influential during the period under study, though not powerful enough to preserve the system of preferential tariffs past the 1840s. Nonetheless they delayed adverse changes, and on occasion advised on Canadian politics, especially in 1822 and in the second half of the thirties. These merchants were chiefly the importers of colonial grain and timber, and the suppliers of manufactured goods to a colony of about half a million people with almost no manufactures. The traders were able to point out that the Canadians, per capita, consumed far more British goods than the Americans with their high tariffs; and the timber interests of Quebec and New Brunswick managed in 1820-21 and 1835 to beat off two strong attempts to improve the competitive position of

Baltic timber in the British market. The parliamentary committee on foreign trade in 1821 combined a general endorsement of free trade with a tacit acceptance of the status quo in the timber trade; and along with the closely-related shipping interests, the colonial timber merchants successfully propagated the view that emigration to Canada and Canadian importation of British manufactures depended entirely on preferential treatment of colonial wood; similarly, the landed interest and the advocates of cheap grain could not destroy the preference enjoyed by colonial over foreign corn down to 1846. A third important interest was created in the 1820s when the chartering of the Canada Company to deal in Upper Canadian lands, and the establishment of the Welland Canal with its enormous borrowing requirements created a class of specifically Canadian shares and debentures trading on the London market, a branch of the colonial economy which became important through a British-guaranteed loan in the 1840s and with the mushrooming of railway companies later in the same decade.³⁰

From these passages on defence and trade it becomes clear that British interests in the Canadas were largely defensive but also constructive, held together by sentiment, tradition, and advantage. Sentiment was strongest in the third sphere of interest, emigration. In this area, even more than in defence, the emotional quality of British attitudes towards the Canadas showed clearly. Englishmen like William Huskisson felt the colonies provided an opportunity for Britain to redeem her American failure in 1783 by stimulating the trade and settlement and British characteristics of her remaining colonies in North America.

Contemplate the possibility of another set of provinces, emancipated from commercial thralldom, but firmly maintaining their political connexion -- their commercial marine a part of our commercial marine -- their seamen a part of our seamen --

their population a part of our strength. --Consider whether it would not be worth while to attempt a course which promises, both to those provinces and to the mother country, all the commercial benefits of a free trade, together with all the political advantages of our continuing parts of one great empire, and enjoying alike, under the sway and protection of the same sovereign, all the rights and privileges of British subjects.

Many traditional preoccupations about emigration were present in that speech -- concern about keeping Britain's flag flying and her merchant vessels trading wherever British subjects went -- but the emotion in Huskisson's remarks was as evident as the strategic common sense.³¹ To other observers, emigration was necessary -- let it therefore be an adventure. Wordsworth proclaimed the destiny of the English people to reproduce rapidly and fill new lands.

So the wide waters, open to the power,
The will, the instincts, and appointed needs
Of Britain, do invite her to cast off
Her swarms; and in succession send them forth
Bound to establish new communities
On every shore whose aspect favours hope
Or bold adventure; promising to skill
And perseverance, their deserved reward.

And Robert Wilmot Horton, emigration enthusiast par excellence, envisaged in 1831 the redundant population of rural England transported to the wilderness of Lower Canada and set down, in their original groups, in new Canadian villages bearing the old English names. To many writers on emigration, especially those who had never been to the colonies, English village life of the eighteenth century was a social ideal which could be reproduced in Canada, leaving the original model revitalized by the removal of excess population. Britain, Canada, and the world were expected to benefit almost immeasurably.³²

vi

These imperial aims, pressed by different commercial, military, political and social bodies in Britain, added up to a policy with which colonists could at least for the time being collaborate without sacrificing their own interest. The details of some imperial plans might be impracticable, but there was nothing inherently oppressive in the objectives. Not all the colonial public revenues were at the disposal of the elected legislature, but Parliamentary grants for defence and defence-related public works outstripped the total of local taxes, at least on annual average during the 1820s and 1830s. There was no serious local campaign for free trade (and none for protection of native manufactures) and the province's resource-based economy would have shrunk without the reciprocal tariff preferences. Canadien opposition to immigration, weak between 1808 and 1828 in any case, was based on ethnic and not on demographic consideration, for much of the present-day farmland of Quebec was still unoccupied in 1840. To British observers, imperial aims seemed more likely to conflict with each other than with the good of the colonists. The Duke of Wellington struck a warning note on assisted emigration in 1826:

I do not consider it necessary for the defence of the colonies of North America to encourage emigration to them. I believe they are now sufficiently peopled to be able, if encouraged [and assisted by this country]... to defend themselves.... But if we look forward to the result of the natural course of events, consequent upon an encouraged and therefore a premature and forced emigration to the North American colonies, we shall find among them an early and large increase of the population of the country, a recourse to manufacturing industry as a means of subsistence for a portion of that population, and an impatience of the subjection and

control of the mother country.³³

Slow development was better than reckless development. A similar note on a slightly different theme was struck by the diplomatist Stratford Canning, in a letter of 1822 warning Horton against too hasty an attempt to change the province's French characteristics. Why, Canning asked, did Horton imagine that merging the Canadiens

with the mass of the population, would be ultimately beneficial to British Interests? The french Canadians have frequently given proof of their loyalty, their prejudiced reluctance to give up the present system with its various clogs on property secures them from the modern spirit of innovation; their attachment to the language & customs, of the country from which they sprung, though tending to keep them apart from the English, has the effect of making them still more averse to their Anglo-American neighbours. Destroy them as a separate influence, and with these advantages you lose whatever resources they may afford at any future period for keeping in check the mixed & loose population of British origin.... In spite of what you hear from sub-official quarters, I never can believe that it is for our interest to treat la nation canadienne as a conquered people.³⁴

This was a classic statement of the military and diplomatic view of the preceding half-century, and it epitomized the imperial authorities' reluctance to govern the colonists against the grain of their own feelings. This British complaisance provides the main reason why in this study the terms "collaborators" and "non-collaborators" have been avoided. They assume an integrated imperial purpose that was lacking in Lower Canada before 1841. Colonists, almost without exception, were collaborators with the imperial authority to the extent that all supported a paramount aim

of British policy, depriving the United States of the northern half of the continent they shared. But there was ample room for disagreement on how that strategic aim could best be defended, for the local majority in one province argued that autonomy was the best route to strength. On this point the Canadiens differed vitally with the majority of British North Americans, who believed military security was pointless without commercial strength, and therefore championed the central authority of the empire. From the imperial perspective, the basic problem from 1820 to 1841 in Lower Canada was not to find new ways to take unfair advantage of the colonies' weakness, but to create a régime, a socio-economic structure, which would advance the aims of British imperialism while remaining, not merely efficient, but legitimate in the eyes of both the colonists and the politically articulate classes in Britain.

PART II

Chapter 2: Imperial Control and Local Leadership, 1820-1830

i

During the 1820s, all parties in Lower Canada claimed to be friendly to British interests and institutions.¹ The imperial authorities reciprocated: they tried to give strong but friendly guidance towards social and economic improvements, and they cultivated -- at least sporadically -- the good will of all elements of colonial society. Some groups responded more readily than others to British initiatives. Britain's reliance on the traditional élites of Lower Canada -- the clergy and the country gentry -- dated from the earliest days of British rule and was never formally abandoned by the imperial government, but it bore little fruit in the twenties, when those élites refused to use their influence to help return an Assembly that would co-operate with the bureaucracy. The Governors' views did not always mesh with those of local or imperial politicians; and there was maladroitness, disorganization and outright corruption in the colony's administration. The Governor, the Executive Council and the judges were targets for intense criticism from popular leaders of British as well as French origin. Harmony was further disrupted in 1822 when the government in London lost patience with the Canadiens' social conservatism and flirted with schemes to increase the power of the English-speaking merchants and settlers, as well as the colonial executive.

ii

The Roman Catholic clergy, whose property and tithes were guaranteed by Britain after the cession of 1763, were counted on by the imperial government to act as a main prop of the civil and military authorities. There were occasional threats against the clergy by headstrong local officials during the Napoleonic Wars, but by the 1820s the clergy were threatened more by anti-clericalism among their own flock than by the British authorities, most of whom felt well-served by the clergy's loyalty during two wars with the United States. This loyalty seemed to justify leaving the bishop with a larger patronage than the Governor. One British observer in the colony wrote in 1819 that the government was inclined to rely too much on the Church, whose power was exaggerated; but another recognized the symbolic importance of Catholicism to the mass of French Canadians during the election campaign of 1820, when "even those who have no religion, join in the Cry, for their national pride, & predilections are aroused" by threatened Protestant encroachments.² H.T. Manning has treated in some detail the courtship of the Bishop of Quebec, J-O Plessis, by the Colonial Secretary, Lord Bathurst;³ but her treatment of the question left out of account aspects of two main issues after 1820: primary education, and conflict between the diocese and the clergy of the district of Montreal.

Before 1830, the Royal Institution for the Advancement of Learning was the only state educational body; it was controlled by Protestants under an Act of the Assembly of 1801, and was starved of funds by later, more nationalistic Assemblies. Fernand Ouellet has sketched some of the obstacles to an attack on the province's widespread illiteracy: a residual suspicion in some Catholic circles that universal education was unnecessary and might be dangerous; a shortage of funds in the hands of the Church; and a lack of potential teachers.⁴ Yet Lord Dalhousie, as

Governor, was anxious to encourage Church-controlled Catholic primary education, while the liberal nationalist opponents of the Church were assisted by Lord Bathurst. Dalhousie, Plessis and the Anglican head of the Royal Institution all agreed that the Institution was not working against Catholicism, but all equally realized that its Protestant composition made the people suspicious of it, and a thorough revision of its managing board, or a division into two boards, was overdue. Dalhousie pressed this view on Bathurst in 1821: "The Catholic Religion in this Province is certainly the most sure defence of it against our Neighbours, and every fair encouragement should be given to it in promoting Education and Learning." This remark accompanied a bill which had passed the Assembly that year. Bathurst found the bill unobjectionable, but told Plessis that royal assent would be withheld, along with the rent for the legislative buildings (which the diocese owned) until the civil list question was settled.⁵ Dalhousie went to London in 1824 and appealed in person for approval of the still-reserved parish schools bill, and also unveiled his plan for dividing the Royal Institution. Bathurst still resisted both plans, saying they would create powers "too independent of the Crown to be safely lodged with a religious persuasion whose unity of design always makes the most of any power which is given to them." A final effort by Dalhousie to carry the measure in 1827 was defeated by the anti-government and anti-clerical forces in the Assembly.⁶

A second source of trouble was the Sulpician seminary at Montreal, which was under pressure from both the Bishop and the local merchants. The issue with the merchants centred on the seminary's right to three seigneuries, including that of Montreal. Ownership depended on the order's tenuous claim to be a corporation separate from its parent community in Paris; if no separate Canadian corporation existed, then the seigneuries properly belonged to the Crown. No responsible

person proposed to strip the seminary of its income, but many merchants at Montreal felt the Crown would be a more congenial seigneur, and might abolish seigneurial burdens altogether. The matter reached a turning point in 1816, when William Fleming, a merchant, erected a windmill and began to grind wheat. The seminary sought a judicial order to have the mill destroyed as an encroachment on seigneurial rights. During eight years of litigation, the best of the colony's lawyers were briefed by both sides and eventually the Court of King's Bench at Montreal, despite its British-born majority, overruled Fleming's defence that the Crown was the true seigneur of Montreal. Fleming appealed in 1823 to the court of appeal, which was the Executive Council at Quebec; it failed to reach a verdict, dividing 4-4 in February, 1824. Lieutenant-Governor Burton, thought to be a friend of the Canadiens, nevertheless voted for Fleming, as did the merchant William Coltman, Chief Justice Sewell,^{and} his brother-in-law William Smith. Two Canadiens upheld the seminary's rights; so did the politically moderate collector of customs, Michael Perceval; and so did the Honourable John Richardson.⁷

Richardson was the doyen of Montreal's tory protestant merchants, yet in a confrontation between commerce and a Catholic seminary, he sided with the priests. How he viewed the points of law is difficult to gauge, but support for the Sulpicians was consistent with his political thinking despite his Anglican and mercantile connexions. For the seminary was a thorn in the side of Bishop Plessis; the community was made up almost entirely of French and Irish priests who leant towards the Gallican position in church-state relations; Plessis, by contrast, was an Ultramontane, trying to use his connexion with Rome to slacken the formal links between the Roman Catholic Church and the protestant government of Lower Canada. Conflict broke out between Plessis and the seminary after the former's visit to Rome in 1820. Plessis had procured a bishopric in partibus for Jean-Jacques Lartiges.

The elevation of this clever young Sulpician, a lawyer by training and a cousin of Papineau and Viger, created repercussions in both the British protestant community, which believed in the dictum "One Governor, one Bishop", and among the Sulpicians themselves. They suspected Plessis and Lartigues of plotting the latter's succession to both the Bishop of Quebec and the superior of the seminary, extinguishing the seminary's separate existence, enlarging the property of the Diocese, and ensuring that future priests would receive an Ultramontane training. This last point was of deep interest to the government, and when Lartigues was forbidden to live at the seminary because he had accepted the bishopric of Telmesse without his superior's permission, a public squabble resulted which allowed Richardson to show his colours. A quarrel between the seminary and Lartigues over the use of churches led to the construction of the magnificent new church of St. Jacques; John Richardson's financial contribution to the building fund was a matter of public remark.⁸

Lartigues also provoked resentment among priests under his charge by a punctilious insistence on his episcopal dignities which brought to a head the feud between Plessis and some of the older country priests. From the beginning of 1823 the dissident priests encouraged the Governor to believe that a majority of the clergy wished to rely on the government for protection from the Bishop; their spokesman, M. Chabouillez of Longueuil, convinced Dalhousie in a long interview in September, 1823, that many of the clergy "anxiously but secretly wish that Govt would require their induction" to benefices under dormant terms of an ordinance of 1722. Plessis reputedly was reluctant to induct curés, preferring to send priests into parishes as missionaries, thereby retaining the right to move them about and to assign parts of their tithes to other parishes or to general diocesan purposes. Dalhousie felt Plessis did not misuse his power;

but he was old and infirm, and his successor might be less fair. Another small eruption occurred ⁱⁿ when 1824 when Lartigues refused to confirm children in parishes whose priests had opposed him, and the curé of St. Phillippe published his own and his parishioners' protests.⁹ It is not surprising that Dalhousie, Sewell and Richardson were tempted to fish in these troubled waters. But Bathurst was sceptical, and supported the Bishop's right over induction with one hand while sabotaging with the other Dalhousie's search for a good understanding with the church over primary schooling. This conflict between the Governor and the Colonial Office soured for the time being the traditional policy of trying to reach the sympathies of the people through the co-operation of the clergy.

The government was no more successful in reaching the people through the declining seigneurial class. The wealth required to buy a seignury could seldom be maintained through income from land alone. Seigneuries tended to change hands fairly frequently, and by 1800 many of the most important seigneuries and fiefs were in the hands of the Church, the Crown, or the British inhabitants. One French Canadian merchant who managed to buy a seignury outlined for Dalhousie's successor the decline of government influence in the countryside. The executive, wrote Toussaint Pothier, could have checked the decline by employing more of these local aristocrats, who instead became discontented at seeing their social inferiors -- Loyalist placemen and upstart opportunists -- put into the best-paying posts of the bureaucracy. Too loyal to court popularity through opposition, and too poor and mortified to be ardent supporters of the government, the old seigneurial families simply faded into insignificance.¹⁰

The picture was over-drawn, but accurate in parts. In places where the seigneur was a non-entity or was regarded by the habitants as a foreigner, influence tended to pass to

the priest, notary and doctor, who were often drawn from the people and were distinguished from them only by their education. These professional groups largely chose and provided the membership of the House of Assembly, and by the 1820s it was the Assemblymen, not the executive, who controlled patronage in the other great focus of popular leadership, the militia.¹¹ Much has been written about the social influence of senior officers of the militia, but this influence extended only to officers who already met the other requirements for acceptance as social leaders. If an officer was already part of the rural élite his commission might make him as powerful as the local priest. But there was no magic in the commission itself, as Dalhousie found when he tried to dismiss non-resident officers in 1827; this lesson was even more forcibly brought home to the executive when Dalhousie in 1828 and Lord Gosford in 1837 purged the militia of anti-British officers.¹² In Lower Canada humble birth was no bar to popular leadership and broad social influence, and if the government was to create a political élite to rival the one Papineau led, it had to do more than give salaried offices to the inheritors of respectable surnames. It had to locate and promote talented individuals before they became locked into systematic hostility to the administration. Such a selection was a task for which the local executive was wholly inadequate.

iii

The focus of the formal British presence in the colony was therefore not the semi-established churches or the great landowners, but the bureaucracy. In the thirties it became fashionable to point to the Legislative Council as the defender of the interests of Britain and the English-speaking colonists, but in the twenties this role belonged to the executive. Executive officers were to a great extent care-

takers; they had little to do with anything that was innovative or creative in the colony. Important strides were being taken in public works by the imperial authorities directly, by-passing the local officials, and by private enterprise, and even by the parsimonious Assembly, but until 1840 there was no executive department to plan or supervise these ventures. Out of 160 officers in the Blue Book for 1821 more than half -- 69 -- were in the legal and judicial departments, 15 were directly involved in collecting the public revenue, and 20 were employed by the two houses of the legislature. The remaining 56 included the Governor and his entourage of clerks and assistants, the ten Executive Councillors, and a small militia staff.¹³ The executive officers were, barring a few exceptional personalities, so divorced from the majority of the Assembly that they did not even function as a team of legislative draftsmen. Except for the administration of justice and the work of the land-granting process (including a small surveyor-general's staff) the executive merely collected the revenue and carried out other routine duties imposed by British and colonial Acts. The Executive Council advised the Governor when he sought advice, and otherwise served the empire chiefly by providing a congenial social milieu for the Governor and senior military officers, and by acting as a social influence holding up a model in miniature of aristocratic British society, discouraging republicanism and encouraging the idea of aristocracy in a way that the local élites could not or would not do. Within the colony the executive was seen by its supporters as something more than a social model -- it was the rallying-point for colonists of all origins who rejected the local ideal of an agricultural province retaining individuality through an ancient legal system, and entrusting its future to priests and notaries instead of soldiers and businessmen. The executive was also regarded in the twenties as a vanguard -- or a Trojan horse -- to assist future immigrants to Lower

Canada. Some bureaucrats, like the auditor-general (later receiver-general) John Hale did indeed combine official duties with a disinterested straightforwardness in politics and the attitudes and investments appropriate to an improving English landlord of the times. But more conspicuous were men like Chief Justice Sewell and the clerk of the Executive Council, Herman Ryland, who certainly lived in aristocratic style but were cut off from the people by their dabbling in politics and their constant caballing among and against each other to secure for their friends and off-spring parts of the slender patronage at the Governor's disposal.¹⁴ In the twenties, Sewell and Ryland were the most prominent survivors of some abortive manoeuvres against the Catholic Church and the elective franchise before 1813. The deep mistrust the Canadiens felt for them coloured the attitude of much of society towards the whole executive, who were branded the "chateau clique" and despised and feared. Far from making British rule agreeable to the people at large, the chateau clique was an irritant.

There were two rival theories about the relationship of the bureaucracy with the Governor. Both were promulgated at different times by John Neilson and his Quebec Gazette. The orthodox patriote view was that the Governor was a despot who made the Executive Councillors his tools and through them, and his control of patronage, commanded a block of votes in the Legislative Council. But a leading article in 1824 expounded a more subtle view.

If those to whom a Governor is to look for advice,... [are] bound together by any tie of individual interest; if, in addition to this, they should have a decided controul over one Branch of the Legislature, and could arrest the whole of its proceedings; if they had also the expounding of the Law in the Courts of Justice; a Governor must find himself very powerfully supported both in and out of the

Colony, who would think it adviseable to take a decided part in opposition to their views.¹⁵

With a weak Governor the second explanation was the more accurate one. Dalhousie dealt diffidently with his Councillors, seldom finding the nerve to resist their more outrageous demands for patronage, allowing himself at one point to be excluded from an in camera session of the Council discussing the receiver-general's embezzlement, and observing in the early days of his administration that he had been obliged to bring forward a vital measure -- the civil list of 1820 -- in a manner he disapproved of. This habit of temporizing with the executive and confronting the Assembly formed the basis of his reputation as an authoritarian Governor. As long as he hid his rifts with the officials and joined their battles with the Assembly he would have comparatively little difficulty with Lord Bathurst in London, but he was bound to appear arbitrary to the colonists. He deferred too easily to the Council's talent and authority, then resented the fact that almost no-one would defer to him. His private plans for reforming the Executive Council were strikingly similar to the system worked out by Lord Sydenham twenty years later. The Council as Dalhousie found it was dominated by judges and lesser functionaries, with a few independent and distinguished members like John Richardson. Dalhousie proposed reforms to make the system more Parliamentary than presidential, excluding judges and appointing the principal officers of the legal and revenue departments to the Executive Council, along with the Speaker of the Assembly. He also compelled the law officers to seek seats in the Assembly, pushing "every public man to do his duty in his station, & to draw towards unanimity & cordial co-operation in public affairs." But Papineau refused to take his appointment to the Council seriously, Attorney-General Stuart lost his seat at Sorel in 1827, and only one Canadien, the clerk of the Legislative Council, joined the Executive Council during Dalhousie's eight

years as governor. His Council failed, despite his best efforts, to become either an effective administrative body or a bridge to link the sympathies of the people more closely to the wishes of the imperial government.¹⁶

The remainder of the bureaucracy was a patchwork of old French survivals and eighteenth-century British improvisations. Dalhousie was appalled by the inefficiency of the over-centralized structures -- the judiciary, for instance, mustered as many judges as all of England and Wales, yet only the most trivial cases could be tried outside Montreal, Quebec and Trois Rivières.¹⁷ Dalhousie's papers are strewn with proposals for municipal authorities, rural police and an extended system of courts, but complaints against over-centralization came even more eloquently from the reforming editor, John Neilson:

In Canada we have been plagued with an old French system of government; that is to say a government in which the people have no concern whatsoever, every thing must proceed from the city of Quebec and the city of Montreal, and persons must come to the city of Quebec and the city of Montreal to do every thing.... In the United States they have the English system, by which every locality has certain powers of regulating its own concerns, by which means they regulate them cheaper and better; whereas with us a man must make a journey to Quebec, he must go to great expense, he must bow to this man and bow to that man, and rap at this door and at that door, and spend days and weeks to effect a little improvement of a road, or something of that kind, of common convenience to a district, whereas all that is done in the United States without going out of his own small district.¹⁸

Patronage was the glue that held the chateau clique together, but there is little superficial evidence to support J.B. Brebner's suggestion that the struggle of colonial assemblies to control the executives was really a struggle to control patronage. The patriotes' steady refusal to enlarge the bureaucracy (except for small offices in the gift of the Assembly) made acute the competition for the few places which fell vacant every year, but it also ensured that the patriote notaries received a sizeable income from fees for performing quasi-public registration duties which British colonists were anxious to commit to a new class of public officials at the parish or township level. Equally important was the paucity of good patronage at the Governor's disposal. Of the 160 offices in 1821, 12 of the best were routinely in the gift of the imperial authorities in London, and another 22 were at the disposal of judges, magistrates and the legislative chambers. Some higher offices, such as judgeships at Quebec and Montreal and the posts of law officers of the Crown, were nominally at the disposal of the Colonial Secretary and Bathurst did sometimes dispose of these offices without consulting Dalhousie. Not only could the Governor rarely reward deserving local figures with high offices, but he was saddled with the unpredictable and sometimes undesirable attitudes of the newcomers, for the tide they moved on flowed from Westminster, not from the Chateau St. Louis at Quebec. The Governor originally intended to delegate patronage to the heads of departments; but no clear departmental structure emerged, and Chief Justice Sewell showed the impracticability of such delegation, because he had enough sons and brothers to fill every vacancy in the legal departments. With parish patronage in the hands of the Assemblymen and regular importunity from the men on whom Dalhousie depended for the day-to-day conduct of affairs, it is not surprising that he regarded patronage as a curse. As W.L. Morton wrote recently, "There was simply not enough effective patronage to make the

ponderous machinery work if there was real friction."¹⁹

With the Governor and reformers united in believing in a general overhaul of the administration, there was nonetheless no general improvement before 1838. Dalhousie struggled hard and for the most part fruitlessly to reduce excessive fees and contingencies in public offices, and bills to improve the judiciary migrated almost annually between the two chambers of the legislature. Public works were administered by temporary boards of paid, part-time commissioners named on the advice of Assemblymen, but almost no new works were begun between 1820 and 1829. Courts of limited civil jurisdiction were set up in two remote towns. But the bureaucracy remained largely unchanged. Leading Assemblymen sought reforms to make judges and bureaucrats more accountable to public opinion, less fully dependent on each other for protection and support. There was strong resistance to the idea of making new salaried offices; Assemblymen never sanctioned the creation of the post of auditor-general, and wrangled interminably over creating rural courts. The Governor wanted to expand the bureaucracy to bring the voice of the executive closer to the people; the Assembly wished to constrict the bureaucracy and make new offices, if they were needed at all, responsive to the people and not to the British executive. Finally, throughout the attempted reforms ran a common thread -- the determination of the Assembly to offer everything with strings attached. The correction of small abuses was always intimately linked with the demand for large concessions. Whether the issue was roads, schools, control of the receiver-general, extension of the courts or revision of the militia laws, the Assembly always couched its measures in such terms that the Council and Governor, in accepting them, would have to give way on some point of the quarrel, in the imperial context, between the advocates of centralism and autonomy.²⁰ To the imperial centralists, this passion of the patriotes for mixing up small matters with

large ones betrayed a lack of wisdom, and a lack of serious purpose, which called into question the whole constitution of Lower Canada.

iv

The complexity of imperial, executive and popular pressures on the bureaucratic structure is well represented by the case of John Caldwell. When Caldwell succeeded his father as receiver-general in 1809, he also acquired a secret deficit of £39,000 which must have come to light if the office had passed out of the family. During the next dozen years Caldwell represented all that was respectable in provincial society. He owned the valuable seigneurie of Lauzon near Quebec, and his most intimate friend and business partner, John Davidson, sat in the Assembly for the county of Dorchester, where Caldwell's seigneurie and sawmills were located. He visited England often, but while in Canada his hospitality was particularly noted by the local gentry and by visiting strangers. Caldwell was appointed to the Legislative Council in 1818. And between 1810 and 1822 a further £66,000 of public money became tied up and lost in his mercantile speculations.²¹

In 1821, the MPP for a neighbouring county introduced a bill to enable the Assembly to oversee the receiver-general's affairs. In a guarded exchange^d with Charles Ogden of Trois Rivières, François Blanchet avowed that his bill meant no "mistrust of the integrity of the Receiver-General"; but he proposed to forbid Caldwell to engage in trade, and to submit the public monies to annual account. Ogden protested that the bill was "premature and personal" unless Blanchet had "complaint or suspicion" of misconduct; and Blanchet let the bill die in committee. But Dalhousie was uneasy, and ordered his civil secretary John Ready to investigate. He reported nothing, and it was not until 1823 that his duplicity was

exposed. Ready had consulted Davidson and Caldwell, and "The inquiries... were not neglected, as I imagined, but were suppressed, & the declaration only now forced from Mr. Caldwell, ought to have been laid open then."²²

Caldwell did his best to keep his fences mended. In London in 1822 he tried to persuade the undersecretary for the colonies, Wilmot Horton, to repay to the province money used by the imperial authorities during the recent war; but Bathurst hoped to save this sum by balancing it against local expenses borne in the past by the British treasury. Caldwell and Davidson continued to cultivate Ready; they also courted Papineau and the Lieutenant-Governor, Sir Francis Burton. At the same time Caldwell did his best to undermine Dalhousie: "He knows neither how to induce or even take advantage of a favorable disposition towards him, he wholly avoids being in communication with the leaders of the Assembly." At the same time Caldwell touched a point he and Horton had discussed at length in 1822:

An elaborate report has been made on the state of the Publick Accts. by the special Committee of the Assembly. It takes up the question from the beginning, & may be considered as a fair statement of the balce. which ought to be in my hands... but which is not there, in consequence of former Governors having drawn from my Chest Monies on account of expenditure never laid before the Legislature... & 2nd the excess of expenditure over what the 14th G. 3 and the Territorial Revenue were able to pay.²³

Not only the Assembly was perturbed. Dalhousie was called upon to issue warrants for nearly £100,000 on a chest containing about £12,000. What amazed him most was the culprit's demeanour: "with most extraordinary coolness, he justifies himself upon an understood permission of the Lords of H.M. Treasury, to hold for his own benefit, and as part

salary, a floating balance of £100,000. In truth, there is... £80,000, involved & tied up in Mr. Caldwell's Mercantile concerns." Dalhousie refused Caldwell's proposal to "use the Military and Civil Chests indiscriminately in aid of each other", an expedient which would avert a cash shortage but leave the accounts in chaos. He decided instead to defer for three months the payments due on 1 May, and to pay none of the Assembly's new appropriations until the eve of the next session, 1 December.²⁴

After the shock of public disclosure in August, 1823, the Caldwell affair lurched from one crisis to another. Sewell and Dalhousie preferred to deal with Caldwell as with any other defaulter. Caldwell paid back a mere £3,000 during a period of grace in 1823, but the Executive Council gave Dalhousie the dubious advice that he had no authority to suspend an officer appointed by Treasury; so the Governor appointed two commissioners to watch all financial transactions. In mid-November Dalhousie suspended Caldwell and turned all the relevant papers over to the Assembly. A rear-guard action was fought by Caldwell's friends in the Executive Council, and eventually Davidson personally extracted promises from Bathurst and Wilmot Horton that Caldwell would be dealt with as leniently as possible. Horton even contemplated reappointing Caldwell as the best way to speed up repayment of the deficit. The Assembly tried to hold Treasury accountable for repaying the deficit, and Treasury took more than two years to decide that it was not responsible after all. Dalhousie was irritated by the Assembly's determination to jumble up Caldwell's case with all the unsettled old accounts between the colonial and imperial treasuries. In the long run Caldwell lost his office only because Dalhousie refused to temporize further; he also surrendered speculative holdings in the townships and a few small seigneuries and two lots nominally worth £32,000. He promised to pay back the remainder at £2,000 a year from the

revenues of Lauzon, which he retained while a supposed entail was tested in the courts. The judicial committee of the Privy Council found the entail invalid in 1835, and from then until 1858 the seigneurie was Crown property, but leased to the Caldwell family. Caldwell retained his seat in the Legislative Council, but in 1825 John Hale, whose capital was not in trade but in Canadian land and British funds, was approved by the Assembly as receiver-general, with twice the salary that Caldwell had received.²⁵ What is particularly interesting is that the embezzlement of about £100,000 was not mentioned in the imperial Parliament until five years after it was disclosed. The handling of this problem by Bathurst, Horton and Treasury amply demonstrated that while British authorities were careful to centralize control of the colonial executive, they were sometimes casual in their approach to how it functioned.

v

From 1822 to 1826 Canadian politics were enlivened by the impetuous young Under-Secretary at the Colonial Office, R. Wilmot Horton. Lord Bathurst had personified the traditional policy of trying to rule quietly through established élites; Lord Goderich would begin in 1827 the wooing of the liberal nationalists; but Horton produced a short burst of reform projects which, encouraged by visiting or expatriate Anglo-Canadians, he tried to push through the imperial Parliament. Apart from Horton's well-known record as an emigration enthusiast mention must be made of the Canada Trade Act of 1822, part of which reimposed on the St. Lawrence ports a lapsed provincial revenue tariff, and the Canada Tenures Act of 1825, which extended English land and inheritance laws to the Eastern Townships and made it possible for seigneurs to take a freehold grant of tracts they previously held in trust for future censitaires.²⁶ Important as these measures were

as intrusions into the internal affairs of Lower Canada, they were but fragments of a far-reaching reshaping of the Canadian constitutional Act of 1791 which Horton presented to Parliament in July, 1822, but withdrew under pressure from members anxious to hear the colonists' views before proceeding further. The measure was the legislative reunion of Upper and Lower Canada.

The ostensible cause of this venture was the revenue dispute between the Canadas. The population and amenities of the upper province were much smaller but growing more rapidly than those of the longer-settled lower province. Officials at York were already by 1820 annoyed at receiving less than Upper Canadians paid of the revenues collected on goods which they and the Lower Canadians imported jointly through Quebec and Montreal. Unfairly small or not, their share was important, and they relied especially on duties levied in 1813 as a wartime emergency and diverted to peacetime purposes after 1815. Lower Canada used its share of this fund to finance an uncharacteristic burst of road-building, but refused to renew the duties beyond the end of 1822. The British authorities were reluctant to see Upper Canada starved of funds or to divide the economic unity of the Canadas by a customs barrier at the province line; so Horton stepped in to renew the expiring acts, pleading in justification that Parliament was the only legislature the two colonies enjoyed in common.²⁷ But Horton had tried to go much further, by remedying the lack of a common legislature, uniting the two Assemblies, Councils, and governorships (but not the treasuries or bureaucracies). This attacked the policy of letting the French Canadians develop separately, because Horton accepted the Montreal merchants' argument that the Canadiens were reluctant to develop at all.

The economic evolution of Lower Canada, and its assimilation to Britain, had been residual British policy since 1791. The distractions of twenty-five years of war, and the

cultural conservatism of all classes of Canadiens, had thwarted this policy without burying it. Charles James Fox had supported the merchants in 1791 in their effort to keep the province intact:

The most desirable circumstance was, that the French and English inhabitants of Canada should unite and coalesce, as it were, into one body, and that the different distinctions of the people might be extinguished forever.... He wished the people of that country to adopt the English laws from choice, and not from force; and he did not think the division of the province the most likely means to bring about this desirable end.

Pitt retorted that the division was fundamental to the bill; it was important in the short run to prevent the French from oppressing the Loyalists as they might in a single Assembly, and the French themselves should realize that the British government had no intention of forcing the English laws upon them, and therefore they would, with more facility, look at the operation and effect of those laws, compare them with... their own, and probably in time adopt them from conviction.

To Pitt, the goodwill of the Canadiens was more important than assimilation; but within thirty years colonial merchants found they enjoyed neither the goodwill of the habitants nor the advantages of the English laws they sacrificed to earn that favour; Upper Canada too was suffering. Dalhousie was left to muse sadly, that Fox was right and Pitt wrong "in their views of men and of state policy".²⁸

Views of the future of French Canada were diverse in the 1820s. Edward Ellice assured an audience in 1828 that "any attempt to sacrifice the paramount interests of the improvement and civilization of the country to their habits and prejudices, would not only be injurious to the rest of Canada, but hopeless as to its result."²⁹ But this view was

not unanimously held. A more knowledgeable observer, James Stuart, warned in 1824 that the Canadien threat had not reached its peak; by 1844 the high canadien birthrate would make a compact French society of a million persons. This, just ten years after Waterloo, was unthinkable to anyone but the French Canadians, wrote Stuart, yet "the expectation of this result... obtains generally in the minds of the French Canadians, and increases their aversion to any assimilation with their fellow subjects."³⁰ The provenance of the reunion scheme is in doubt, but one can readily imagine that Ellice, a whig friend of Wilmot Horton, was the prime mover. The subject came up early in March 1822 in the midst of talks at the Colonial Office between representatives of the Upper and Lower Canadian bureaucracies, trying to settle their financial squabble. The Upper Canadian delegate was the attorney-general John Beverley Robinson; he exerted himself powerfully to defeat the reunion for his jaundiced view of human nature convinced him that in a united legislature Lower Canada's politicians would poison the principles of the Upper Canadian minority, who would remain indifferent to the need to assimilate the Canadiens.³¹ But a variety of personal motives prompted more favourable reactions from the Lower Canadians present -- solicitor-general Charles Marshall, an ambitious young Londoner; the aged, crabbed and miserly Francophobe Chief Justice of Montreal, James Monk; the desperate, secretly insolvent receiver-general John Caldwell; an old former judge, William Osgoode, retired since 1801. The Canadiens always treasured the illusion that John Richardson had inspired the reunion from Montreal, but he regretted this was a mistake, "for I would glory in being the author of the measure."³² The idea of reunion was as old as the division in 1791, but Ellice was probably the one who put it into Horton's mind in 1822. The measure, Ellice promised Horton, would pass without a voice raised against it.

It did not. At the last moment Sir James Mackintosh,

who had seen the bill well in advance and discussed it twice with Ellice, rose in Parliament to ask for postponement until the views of the colonists were known. Ellice was mortified, and so was Horton.³³ But Mackintosh's interruption, followed by the illness and suicide of Lord Londonderry, killed the bill for 1822. Horton hastily dusted off the two partial reforms originally contemplated (for making the revenues permanent and allowing seigneurs to alter their tenure) and had them passed with a package of tariff reforms produced by the Board of Trade. Although Horton and Ellice continued to hope for the revival of the Bill, Mackintosh's demand for colonial consultation was a dead weight around the neck of reunion, and it was seventeen years before the matter could be seriously broached in Parliament again.³⁴

Ellice thought consultation unnecessary, for the Canadiens would resist on grounds he considered illusory, namely a wish for survivance. Monk was strident against the democratic implications of consulting the colonists, and from Montreal Richardson pleaded the higher prerogatives of Parliament over those of a few hundred thousand subjects. "The question is one of great national policy, and as such should be argued without attention to likes or dislikes of the inhabitants." But at Quebec City the merchants' organ, the Mercury, found such a reform without consultation unthinkable.³⁵ Needless to say opponents of consultation were advocates of the measure; there was a general sense that if reunion occurred in 1822 it would not be a natural evolution but a coup, carried out against the grain of the past thirty years of colonial policy.

In the colony, the chief advocates of the reunion were Richardson and James Stuart. The latter at the age of 42 had already been solicitor-general and then leader of the anti-government party in the Assembly; his wholehearted conversion to the cause of the Montreal merchants aroused much suspicion but Stuart worked loyally for the cause,

dominating Montreal's campaign for the bill, crossing the Atlantic four times, winning the Governor's ear, and publishing a flood of pamphlets in London in 1824³⁶ to counteract the Canadiens' isolationism as well as schemes for a general British North American federation put forward by his arch-enemy Chief Justice Sewell, and Upper Canada's Robinson. In the meantime, John Neilson's son reported to the absent reformer, the Legislative Council joined the Assembly in rejecting the proposal, as 15 seigneurs and bureaucrats crushed the reunionist hopes of four merchants and Herman Ryland:

I believe the people have frightened them into terms. The evils of the measure were magnified by the Canadians so much that the English party really thought there would be some serious disturbances if it took place and the Council have declared themselves for no union upon any terms equitable or not. This is more than the Assembly if the Question had received a little varnishing and been declared equitable would have done, indeed, a very good speech of Mr. O'Sullivan for an union on equitable principles I saw had made many converts in the Assembly; (Dr. Blanchet & Cuvillier among others) he contended that an union was desirable because it would increase the weight of the popular branch and give a spirit for public concerns which is now wanting to the Assembly of L.C.³⁷

It is difficult to assess how much of the hostility the Canadiens directed against the measure was due to its gradual tendency to assimilate them, and how much to the provisions Neilson alluded to as inequitable. There were two of these -- the language clause, making English compulsory in Legislative debates after 15 years, and the regulation of Church patronage. At the instigation of Monk the Bill sought to give the Governor the final decision in the distribution of Catholic

clergy. This provision, the source of Dalhousie's subsequent efforts to revive the ordinance of 1722, ensured that nine-tenths of the clergy would oppose the reunion bill unreservedly, and the Governor and Chief Justice warned the Colonial Office that so delicate a matter must be arranged by concordat with the next Bishop, and not embodied in a constitutional Act. As for the language clause, Caldwell had warned Horton that it would draw a heavy fire, and Richardson thought it worthless: "They may be allowed to speak in Hebrew if they choose, for the evil would soon cure itself".³⁸ The representation clauses, which were not widely debated, were objectionable only to the extent that they consolidated the existing bodies, giving the upper province a heavier representation per capita than the lower. But this illuminated the core and the justification of the measure: it was designed to stimulate development in the parts of Canada already growing most rapidly -- the British parts. This was most eloquently put in the mass petition from the Eastern Townships:

The question is not whether a country already peopled is to renounce its national feelings and characteristics, as the French Canadians may endeavour to represent, but whether a country for the most part waste, and to be hereafter chiefly peopled by a British race, is to assume the character, language, and manners, of a foreign nation.³⁹

The Canadiens attacked this argument by reminding the British authorities of French-Canadian participation in imperial wars against the United States, and by stressing, in tune with the liberal ideology of the Assembly and its new-found friend in the House of Commons, that the opponents of the reunion were a great majority of the population of the affected parts of the Empire. John Richardson might insist that "Argument, not a tale by heads, must decide" but Bathurst

was more cautious; he never abandoned a basic disposition towards reuniting the Canadas, but equally never saw his way clear to turn back the tide of Canadien power by publishing the bills that continued to be worked over by Stuart and the lesser lights at the Colonial Office.⁴⁰

vi

The reunion debate threw a vivid light on Britain's failure to create a strong and popular coalition of local forces to promote imperial interests in Lower Canada. True, the fundamental interest, military security, had been preserved, but in the society that emerged after the war of 1812 too many of the influential and potentially creative elements were hostile or indifferent to commercial expansion and accelerated settlement. The groups most favourable to those other imperial interests, the officials and merchants, were a source of conflict between the mother country and the bulk of the colonists, but still lacked the power to take decisive steps on behalf of the empire. The abortive reunion scheme, instead of providing an exit from these difficult straits, merely increased the anxiety of the French Canadians. But the Revenue Act of 1822 which taxed the colonists by imperial enactment pinpointed the problem, the Assembly's threat to Upper Canada's development. The Assembly of Lower Canada had dared to tweak the tail of the lion's cub, but was amazed to face the full roaring fury of the parent. The only escape for Papineau and his people was to cry "Vive le Roi et la Constitution".⁴¹ But the loyalty was now a tactic, a bargain, and from the time of the reunion quarrel the Canadiens looked more to their own numerical strength and less to the fickle power of Downing Street to protect their local interests from the advocates of those other, less formal aspects of British imperialism, commerce and settlement.

Chapter 3: The Struggle for Control

i

The immaturity of the colonial administrative structure, and the limited spheres in which it needed to operate, sharpened the struggle between centralists and autonomists for control of the state machinery. Both sides could refuse to compromise without too much fear for the short-term consequences: as Dalhousie admitted in 1824, "I am as yet content with what all acknowledge to be true, that the province has improved greatly within the last few years, notwithstanding the untoward circumstances which have occurred."¹ In the district of Montreal development of military transport routes was synonymous with that of commercial waterways, and the British Treasury and colonial legislature shared the burden; at Quebec, timber and ship-building interests were made profitable by imperial stimulation and private enterprise, which the assembly could do little to retard, even if it did nothing to encourage. The permanent revenues of the crown guaranteed that civil servants need not starve, and the gaols need not be thrown open. In short, the struggle for control of the legislative machinery of Lower Canada could not be a grand battle for the destiny of a state, but a part-time squabble for local authority in a province, and it was the sort of conflict that could be prosecuted with most flair and disruption by those who wanted the power of the state checked rather than expanded.

The modest nature of the authority contended for helped to hide from many contemporaries the economic roots of the struggle which historians have been apt to stress. Many

people in the twenties persisted in seeing the struggle as one not of classes, nationalities, creeds or even ideologies, but simply of personalities. Canadian historiography developed too late to provide a well-developed school stressing the role of great men in determining events (though the Makers of Canada series early in this century was designed to meet this lack) so the influence of personalities has traditionally and no doubt correctly been subordinated to other determinants; but to contemporaries, personal hostility seemed clearly one of the ruling forces. Bishop Mountain hated Bishop Plessis, who reciprocated. Louis-Joseph Papineau and John Richardson treated each other with icy indifference in person and with venom in their public addresses. James and Andrew Stuart led the Assembly in a vendetta against James' erstwhile patron, Jonathan Sewell. The British garrison disdained the company of the French Canadians. It was such influences, some observers thought, which really lay at the bottom of the colony's strife, and if only evil men could be checked and proud ones brought to dine at the same table and join in cultural endeavours like the Literary and Historical Society of Quebec, change would be gradual and harmonious. A complicated example of this emphasis on personalities is contained in the following attack in the Quebec Mercury. It was contributed by the Chevalier R-A d'Estimauville, an elderly free-mason, an anglicized, much-travelled landless member of a seigneurial family, but a Canadien all the same. The passage obliquely traced the colony's troubles in the twenties to the ambitions of the two Stuarts in the previous decade:

Perceiving that the new set of Senators were rather inclined to adopt the political opinions disseminated by the French Revolutionists, they built their hopes of ultimate success upon that present disposition of their rivals.... Having

obtained their end, they prudently withdrew... and silently have planned that ultimate scheme, whereby the whole mass of influence must, of course, fall into their hands. And now, indeed, they may be proud of having so ably led, under the mask of friendship, the unsuspecting representatives of the Canadian Nation into a dilemma, out of which they must find it extremely difficult to extricate themselves, with honor and proper dignity.... The resistance offered by these Representatives is directed neither against his Majesty's Government, nor against any constitutional authority; but solely against that party out of the Constitution, which has intruded itself between them and the Sovereign.²

The last lines are interesting -- a veiled attack on the chateau clique in the journal regarded as its organ -- but the main burden of the passage is that James Stuart's ambition, feeding on canadien pride and naiveté, was more important in fomenting difficulties than were democratic ideas. Dalhousie also saw personal objects in public discords. His first great disillusionment with Canadian politics came early in 1821 when personal abuse of the chief justice was hurled about the Assembly.³ Bishop Plessis was the Governor's particular bête noir, whom he regarded as the "secret spring" behind all efforts to strengthen the Assembly at the expense of the Government, and after Plessis' death he was gratified to find a successor of whom he could write, "this old man seems quite passive." Two years later he wrote that "the financial difficulties... have been a mere veil to the mischievous intentions of the faction headed by Papineau. His object is Power."⁴ Papineau himself was not beyond publishing a pamphlet attacking the selfish machinations

of a handful of wicked men as the root of all the colony's troubles. These men of the early nineteenth century knew nothing of Marx, and they were led by Adam Smith and much older writers towards the belief that the economic interests of all social classes were the same.⁵ What was good for commerce (or in Papineau's eyes, for agriculture) was ultimately good for everyone. Political strife seemed a symptom of personal vice, greed, or ambition.

This simplistic approach to the conflict was not as absurd as it must sound to a modern generation raised on economic determinism and the history of social classes. Colonial society was miniscule: the number of effective leaders and prominent men of business on either side can be counted in dozens or scores, and most were personally or professionally acquainted. And the parti canadien (properly called patriotes only after 1826) tried to mask its class appeal, supporting two merchant MPPs from Montreal whenever it could, the notable ones after 1824 being a Canadien, ex-fur trader Pierre de Rocheblave, and a highly-educated Scot, James Leslie, who retained his connexion with the Canadiens well into the 1850s. The patriote party itself was erratic in pronouncements on social classes and economic development. During the 1827 elections Papineau showed this indecision in his praise of the new world at the expense of the old. In Lower Canada, he wrote, there were no great private fortunes, "génératrices de l'ambition et des vices perturbateurs de l'ordre social", and the egalitarian state of Canadien society was a "magnifique création de la Providence." And yet the society of the United States, so dynamic and materialistic compared to French Canada, was equally praised: "Il n'y a pas sur la surface du globe une société plus belle, mieux réglée, plus prospère, où les peuples soient aussi contents."⁶

This ambiguity of aims and social vision encouraged contemporaries in the view that the struggle was a personal

one to most patriotes, rooted in spite or ambition. Superficially there was little to distinguish the opposition of a Stuart, who might change course on the mere appearance of a shift in the political winds; or a Vallières, who could be bought, or very nearly bought, with a judgeship; or a Papineau, who would cling to his principles through rebellion and exile. All three of these men at different times in the late teens and early twenties led bitter campaigns against the bureaucracy, and when Stuart and Vallières could be silenced (like Pierre Bédard in 1813) it was not unreasonable for the centralists to believe that the patriotes were fundamentally ambitious individuals who collectively derived their power from the weakness of the executive, and not from any special merits in their political beliefs.

The importance of personalities in the Canadiens' cause was enhanced by the negative character of their programme. The precise nature of that programme eludes definition; one recent writer has discerned a deliberate effort by the parti canadien to create an integrated Lower Canadian economy based on agriculture, quarantined from Upper Canada by poor water communications and a free trade policy designed to divert Upper Canadian trade and sympathies towards the United States.⁷ Much of this was certainly implicit in the negative policies pursued by the Assembly, but it begs the question of whether the Canadien leadership as a whole wish^{ed} to destroy commerce, or merely divert it into French-Canadian hands by discouraging Anglo-Canadians. The parti canadien in the twenties contained men like Cuvillier who were split between the economic attitudes of the haute bourgeoisie and the political principles of the autonomists, and in the thirties rifts would develop over economic policy, driving nationalist lawyers like LaFontaine towards liberalization of traditional canadien economic structures through radical politics, and others like Sabrevois de Bleury towards a closer alliance

with the English-speaking business interests. Despite these aberrations and exceptions, the patriote policy was chiefly inspired by the muddled economic thinking and enormous popular prestige of Papineau and was therefore passive and negative, and suited to a long campaign of attrition against government. Simply stated, the mass of the Lower Canadian electorate accepted representatives who offered nothing but protection from human, not economic forces; and the apparatus of the state was so small it scarcely touched them; they liked it as it was, and voted for men who promised to leave it that way.

The great electioneering cries of the twenties denounced alleged threats of high taxation and religious oppression. In the first campaign of 1820 Cochran noted that "there is a very prevalent apprehension that their Religion is in danger."⁸ And in 1827 Papineau warned the voters that the ambition of the opposite party was to tax the people at every level of their existence. Sewell and Richardson

"ont en effet voulu établir des taxes directes sur les terres, et la nuée de collecteurs qui auraient été nécessaires pour en faire la perception. Si nous ne voyons pas cette odieuse espèce d'hommes pénétrer dans nos maisons, pour emporter leur part de nos propriétés, ce n'est pas aux employés de l'administration que nous en avons obligation."⁹

There was even a degree of fact in this: the government party had openly espoused local taxation for local public works since the great gaols controversy of 1805, and although such taxation would have fallen very lightly on rural parishes with few British settlers, it would doubtless have increased the public revenues and expenditures of the province as a whole. And there were always ill-informed and ill-disposed rumours of what the government would do with the property of the seminary of Montreal if its title was ever formally

judged invalid. These threats were mostly out of date by the time of Dalhousie's administration, but the memory of them was kept green by the patriotes and by the fulminations at Montreal of a minority amongst the merchants and the legal profession. This ambiguity helped permit the parti canadien to represent itself as the indispensable protector of the habitants; and as long as the official policy of Great Britain remained passive or sympathetic to the Canadiens, the Assembly could continue to block or postpone measures urgently demanded by the capitalist class and the British colonists generally, relying on the passive acquiescence of an electorate that required little other than to be protected from threats which were easily evaded because they were in any case between ten and twenty years out of date.

ii

The struggle for control centred on finance; this was as true for the centralists as it was for the autonomists in the Assembly. The exact amount haggled over was small -- about £3,000 a year in salaries for absentees and new offices -- but the struggle was bitter, because the bureaucrats strongly suspected that annual dependence of officials on the Assembly would make popularity a prerequisite for retaining office -- and in a small colonial society popularity was not necessarily equated with ability or integrity. Could decent men be found for the executive posts if they had to rely on the Assembly for an annual and variable pay? Of course not, replied the Colonial Office and the bureaucrats, and one wag proposed a candle auction to sell off the public offices to the men prepared to fill them for least reward: "It would only be necessary for the Auctioneer to make public declaration, that Character, Education, Talents and Integrity would be dispensed with in all candidates for public employment. This assurance alone... tends no further than what a

certain reduction in the appointments of all public officers would bring us to." And Solicitor-General Marshall expressed his contempt this way:

"What could be more unstatesmanlike than to say, 'It is true that there are some heads in the estimate, under which more is asked than we think necessary... but no matter... we can afford to be extravagant this year; but if our trade falls off, you must be cut down... according as our Constituents consume more or less rum.'"¹⁰

Papineau retorted that annual votes worked well in every other British colony; but since all other colonies' civil lists were subsidized by Britain, the argument was clearly meant to impress Papineau's followers, not to discourage his critics. There were two other main elements in the debate. Because the proposed long-term civil lists included the cost of the judiciary, they might amount in some years to over one-third of the year's revenues. (Britain's civil list was one sixtieth of total revenues.) But the colonies paid nothing for defence or for a national debt; the two situations were in no way parallel. This hypocrisy on Papineau's part was matched by a narrow legalism on the side of the Colonial Office concerning the right to appropriate the duties raised at Quebec under a fifty-year-old revenue Act of the British parliament, (14 Geo. III c. 88) passed before the Declaratory Act in 1778 renounced the right to tax the colonies for revenue. In 1824 the imperial law officers confirmed Bathurst's view that the British Government had not merely the duty to audit but the right to direct the disposal of all those funds. But this strict interpretation need not have inhibited the Colonial Office from spending in accord with the Assembly's priorities, provided the latter were constitutionally presented and met the rather wide criteria of the

original appropriation in 1774. The Assembly, unhappily for its own cause, always claimed these revenues on the untenable legal ground that the act of 1778 could be construed retroactively to amend (but not repeal) that of 1774. It would be difficult to improve on Creighton's gloss: "On the one hand, there were the dilatoriness, the stubbornness, the sudden concessions, and the righteous superiority of the colonial office and the executive; on the other, there were the childish suspicion, the absence of public responsibility, and the mental rigidity of the members of the assembly."¹¹

Creighton and Manning have given the minute details of the civil list question down to 1831, and P.A. Buckner has examined the issue from 1828 to 1841.¹² There need be no effort here to review the details, and the discussion which follows is designed to concentrate on aspects of the contemporary debate which have not been sufficiently appreciated by other historians, and particularly the relevance of the civil list disputes to the evolution of political alignments and rifts amongst the Governor's supporters, the colonial centralists who stood between the Assembly and the Colonial Office and tried to advance the interests of the colony within the limits of their own constitutional ideas and private interests.

When Dalhousie took over the administration of Lower Canada he inherited many of the views of his predecessor. His only first-hand experience of the Canadas was a visit to Richmond in 1819, and he retained the late Governor's private secretary. Since Dalhousie inherited Richmond's despatches and his secretary it is not surprising he received many of his opinions as well. He set these down in a major despatch on the civil list on 14 July, asking Bathurst's advice on the wisdom of persisting in Richmond's course of seeking from the Legislature a permanent appropriation, or one for the life of the King, to guarantee the government about £40,000 a year for official salaries and contingencies.

Bathurst's reply, received in mid-November, left Dalhousie a fair amount of latitude to conclude the best agreement he could, but indicated what would be the policy of the Colonial Office if the assembly proved intractable:

It may be necessary however that I should shortly submit to you that the essential object to be attained is that the concession to be made should be dependent on the permanent assignment of a fixed annual Revenue to meet the Charge of such a Civil List as the Province requires for its proper Administration.

If the revenues at Dalhousie's disposal were sufficient to carry on the fundamental operations of government without help from the Assembly, he should prorogue it if it refused. Bathurst clearly anticipated a struggle during which the normal operations of government would have to be pared down severely. A private despatch of the same date declared that Richmond's figure of £40,000 was reasonable, and authorized Dalhousie to draw if needed £12,000 of post office and customs revenues normally remitted to Britain, and to save £5,000 wherever it could best be spared -- probably from the salaries of absentees, sinecurists, and Papineau and Plessis themselves. Manning thought that "nothing very clear emerges from Lord Bathurst's dispatches of 1820 and 1821" but Dalhousie laboured under no such disability. He thought Bathurst's instructions "most clear & distinct... corresponding entirely with the views I had myself imagined most wise and also giving me a discretionary power & latitude which I did not expect." He prepared to meet the legislature a month later.¹³

Dalhousie had been warned against the leaders of the Assembly by Richmond's experience, and in dealing with them he intended simply to keep all his intentions candidly before them, and to brief whatever members were willing to support him openly in the details of his measures. He hoped to convert

the Speaker to all his views, but relied in the meantime mainly on Jean-Thomas Taschereau, a Quebec barrister of some talent and energy, but a man of little influence in the Assembly. Dalhousie was less anxious to push his views forward in the Legislative Council. Two weeks before the session opened a senior canadien Councillor, Olivier Perrault, called on the Governor to hint that Councillors would appreciate the same easy access to Dalhousie as had been granted to Papineau, Taschereau and Vanfelson by earlier Governors. Dalhousie sent him away politely, and noted that such consultation was inappropriate: Councillors might give useful advice on their own localities, but were otherwise an undistinguished lot, apart from the Chief Justice who was then very ill. (This view was revised when Dalhousie had met, during the session, Roderick McKenzie and John Richardson, representatives of the Montreal merchant community in the Legislative Council.) The executive officers themselves seemed "disposed to advise more than they ought";¹⁴ but he was uncertain how to deal with this forwardness. From the very start Dalhousie adopted the policy ascribed to him by the historian Robert Christie: "There was no mysticism in his policy, nor intrigue in his dealing with Parliament."¹⁵ He sent his measures forth to succeed, or not, on their apparent merits; the strife of all around him convinced him of what he sincerely believed, that he stood above and apart from partisanship.

The session of 1820-21 opened, as the last one had closed, on a sour note over finances. The English-speaking members of both Councils did their best to take the new Governor in hand. Dalhousie was disappointed to find that Sewell's "object is to force the Commons to a permanent confirmation of the System of Govt by voting a Civil List equal to that which has created of late years so much irritation & discontent," including provision of the "wildly extravagant"

contingent expenses of the executive and legal departments. This steady pressure from the men closest to him caused the first great blunder of Dalhousie's administration, a characteristic capitulation to talent and rank. He decided to let the Assembly's sense of grievance wait while he tried to soften the rigidity of the bureaucracy.¹⁶

Both houses were warned that prosperity and the Governor's own success depended on harmony within the Legislature; Dalhousie was delighted to find the Assembly had called for all accounts since 1793, which "pleases me very much, because it is exactly what I myself wanted done, in the hope of leading to some matured & fixed System of reducing the expenses of the Civil Administration."¹⁷ But by the end of January the Governor was dismayed to find no real results proceeding from the Assembly, and with the criminal courts due to open in six weeks, many of the best-educated members, the lawyers, would be called away. The civil list continued to sizzle quietly in the background; rum punch passed around the chamber and debate was punctuated by the most violent personal abuse of Sewell and other highly-placed men. "Of course the moment that moderation is lost sight of & old feelings on this subject are irritated, so soon the great crash of the whole fabrick will fall in, and all will end in fury, & in smoke."¹⁸

To avert the Apocalypse, the Governor continued to invite all parties indiscriminately to the Chateau, and tried to ignore the fact that they sat silently eating, talking neither to left nor to right, and listening without enthusiasm to his exhortations to conduct themselves with peace and caution. This was not enough. On 8 March the hotheads in the Legislative Council anticipated the Assembly's proceedings on the civil list and fired off six salvoes, "angry resolutions" Dalhousie called them, "which have equally disturbed the steadiness" of the upper house. These were the Richardson rules, adopted as standing orders of the

Council, pledging it not to proceed with money bills inconsistent with British constitutional practice. The first five merely recited what a standing order of the Assembly already declared, that money bills had to be recommended to both houses by the executive. The sixth regulation took higher ground: it repudiated any civil list voted for a shorter time than the life of the King, or voted in a way that allowed the Assembly to curb individual salaries. By a narrow majority the rules were adopted, and the supply bill which came up, passed for one year and with specific items deleted, was killed without debate.

The colony was taken by surprise, and badly divided. All the Canadiens in the council, and two British members, had opposed the resolutions. John Hale told his brother-in-law that the resolutions took "higher ground than I thought we were likely to maintain, or than perhaps the Executive Government expected."¹⁹ Dalhousie closed the session with a haughty speech deploring the clash between the two houses, and the Mercury took up the same theme:

The differences between our Legislative Council and the House of Assembly, on money bills, are in about as hopeful a way as a suit thrown into chancery.... how, when, or by whom, is the issue to be determined? Arguments are to be adduced on both sides....

All we dare do is to pour out our ardent prayer that, prior to the meeting of the next session, the leading members of the different branches may see each other, and come to such an understanding, as to future proceedings, as may smooth the path to harmony, in such a manner, that... there may be no further ground for exclamation... 'a plague of both your houses.'²⁰

There were no conciliatory meetings, and no compromising behind the scenes. In the next session the controversy over

the Richardson rules blotted out what might have been the more important issue, Dalhousie's effort to reduce costs, especially in the legal departments, by transferring many official contingencies to the list of local expenses for which he thought annual appropriations would suffice. But he also transmitted, in the name of the King, a civil list of important salaries, about a third of them in the judicial department, to be voted permanently for the life of the King. The Assembly and Council gathered at Quebec in a most hostile spirit; Papineau had the quorum in the lower chamber raised from 15 to 26 in the house of 50, so that a minority could suspend proceedings. No longer "mild & silent" as in 1820-21, Papineau was now "the declared life of the faction", and in the Legislative Council Bishop Plessis was trying to repeal Richardson's rules.²¹ On 20 January the Assembly passed resolutions in favour of annual supply bills, the non-parity resolutions which proclaimed that British precedents were on this question no suitable guide to the colony. The council replied with "strong constitutional" rebuttals;²² in the course of these proceedings Richardson vented his full hostility and suspicion of the Assembly, adverting to private meetings outside the house to prearrange Assembly business. Such meetings would correspond roughly to the modern Canadian parliamentary party caucuses, but were unfamiliar in British parliamentary practice in the 1820s -- the Lichfield House meeting of 1835 would probably be the nearest contemporary parallel. Richardson could not be expected to look that far forward; instead he looked back.

The only precedents for secret Committees originating independently of Royal Authority, are to be found in the time of Charles the 1st and the Revolution in France, where a Secret Committee, called, the Committee of Public Safety sat and promulgated their Decrees or Proceedings, when it suited them. It is well

known, what followed, and can it be tolerated, under our Constitution, that any Committee appointed by the Assembly without the authority of the King's Representative shall dare to exclude other Members & keep secret their deliberations.... If they assume so dangerous & so unconstitutional a Power... might it not by possibility lead to consequences as destructive, as would be, the appointment of a First Consul, and turning the King's Representative out of the Castle.²³

There could be no advantage in relaxing standing orders which declared and enforced the same salutary checks which the British constitution imposed on hasty or prejudiced legislation. When the supply bill eventually came up, reduced from the estimates and enacted for only a year, Richardson prevailed against the efforts of Plessis, his canadien allies and Michael Perceval; the bill was declared unfit for further proceedings.²⁴ The session produced another major discord, the fiscal dispute between Upper and Lower Canada; this dispute involved the non-renewal of temporary Acts from which 44% of the lower province's revenues were derived. The expiring Acts were eventually kept in force by the imperial parliament.²⁵

The session of 1823 proceeded under the shadow of this loss of control. Not only had Dalhousie continued, against his inclinations, to pay the civil list from unappropriated revenues and the military chest; not only had the British Government wrested from the Assembly its stranglehold on Upper Canadian finance; but the Government had also publicly contemplated reuniting the two Canadas. The Assembly was haunted by this possibility. It may also have been tempted by the knowledge that Caldwell was on the brink of bankruptcy, and that a great scandal could be created by reversing the normal parsimonious policies and spending money which ought

to have been available, but was not. Moreover, Papineau and Neilson were in England lobbying against the reunion bill and the new Speaker, Remi Vallières, was a less forbidding figure than his predecessor.²⁶ This combination of fear, hope, and different leadership induced the assembly to cooperate with Dalhousie's very modest request on the civil list.

Furthermore, in 1823 the Crown revenues for the first time exceeded the "permanent" part of the cost of the civil establishment. This was £32,083 (well below the £40,000 figure set by Richmond) but the Assembly was incensed at the apparent intention of the executive to put the permanent revenue completely outside the Assembly's purview. Perhaps the executive intended not merely to shelter the present group of placemen, but to create a greater number even more obnoxious than the existing ones, as the permanent revenues increased. On the other hand, the change meant that the explicit request for a civil list for the life of the King was not renewed. Dalhousie noted afterwards that he asked for nothing special that year, but merely left the matter to the good sense of the two houses. In fact he did a little more than that. The Assembly's vote of supply failed to meet the strict terms of the Richardson rules, the underlying spirit of the representatives was bad,

& the material part of appropriation would again have dropt as last year, had I not actually requested Mr. Richardson in Council to help the Bill to pass, and that, with every desire to comply with my wishes, he could only do, by adding a strong & pointed Protest against the Spirit and the form in which it had been presented. In fact, therefore, little has been gained in the great object of cordial reconciliation in the Legislature, and I do not doubt but that the evil spirit will out again in next session.²⁷

The session of 1823-24 proceeded in an entirely different spirit. It was the "penitentiary session", the last before a mandatory quadrennial dissolution, and Papineau was back from England and manoeuvring to supplant Vallières in the Speakership. The disgrace of Caldwell was nearly complete, and the threat of Canadian reunion seemed more remote. Papineau was warm in personal abuse of Dalhousie; the assembly rejected an appeal from Upper Canada for new taxes to help repay individuals for property damage during the War of 1812. An Act establishing the rights of dissenters was passed with much sniping at Sewell and the Church of England; and the supply bill, on the pretext that Caldwell's default had impoverished the province, had 25% shorn from every item. A lump sum was voted, somewhat below the total amount asked for. The Legislative Council made short work of this, and Dalhousie at last announced what he had all along wished to do, that he would no longer place himself "in the gap between the Province & its ruin"; he would pay from the permanent revenues the costs of justice and central administration, which he conceived of as essential elements in the royal government of the province, or elements already provided for by previous enactments; and he would leave unpaid those institutions which existed by the will of the Legislature for the convenience of its constituents. In 1824, the harassed governor would "let the Province feel the consequences of the folly & absurd violence of the Assembly, in which I place the whole blame & mischief."²⁸ The Assemblymen were furious, regarding the division into permanent and local establishments as a means of favouring the higher bureaucrats at the expense of the lesser ones. But in this year, as in so many others, political events prevented the matter from being carried into the following session in the same form.

iii

In June, 1824, Lord Dalhousie left Lower Canada for his first visit to Britain since 1816. He was due for a year's leave; grave irregularities by his private agent demanded his presence in London; his health had been deteriorating, with severe headaches and pain in the eyes, for over a year; and he hoped a visit to the Colonial Office might shake the lethargy of the authorities there, who seemed to believe a reconciliation possible between their own principles (which Dalhousie shared) and those of the Assembly, which seemed unlikely ever to yield. Because the Assembly's term had expired, Sewell advised Dalhousie he could be away for almost a year without having to meet the Legislature; nothing need be decided in his absence. Moreover, Dalhousie was lukewarm on the reunion, but was determined that some energetic imperial interference must break the current deadlock. Routine matters would be handled in his absence by the popular Lieutenant Governor, Sir Francis Burton, brother-in-law of George IV's mistress.²⁹

What followed was unique in the annals of Lower Canada. A Governor on leave turned over limited authority to a subordinate and returned fourteen months later to find the whole system of his government overturned. Burton was already on easy terms with the leading Assemblymen, and had made deep inroads into the bureaucracy and Executive Council. Caldwell and Davidson, who still counted for something, were in Burton's camp; so was the receiver-general, Hale, who hated Sewell, and Ryland, whom Burton courted and who regarded the Lieutenant Governor as his last hope of retiring in dignity to a "snug little Situation" in England. Michael Perceval, collector of customs and member of both Councils, had always mistrusted extreme constitutional doctrines. Andrew Cochran accompanied the Governor to Britain. Jonathan Sewell was at war with most of the Executive Council over his son's appoint-

ment as sheriff of Quebec and, fearing an alliance of Burton, Hale, and the other judges against him, was cowed into silence.³⁰ And the Quebec Gazette launched a shrewd campaign to convince Burton that he could succeed where Dalhousie was so dismally failing. In a lengthy treatise on the financial question, the Gazette discussed the influence of the chateau clique and Colonial Office on the Governor, and argued that "a Governor must find himself very powerfully supported both in and out of the Colony, who would think it adviseable to take a decided part in opposition" to the Executive Council.³¹ The reasoning was seductive. In the colony, Burton enjoyed the support of the Assembly and much of the two Councils (excluding the British from Montreal, and Sewell, Smith and Mountain from Quebec.) Outside the colony, Burton's influence extended into the King's bedroom. No one could be in a stronger position to over-ride Sewell, Richardson, and the Governor whom they served.

Pursued by such reasoning, Burton quickly threw overboard all his agreements with Dalhousie. He dissolved the Assembly, getting a new one with all the old leaders still in place. He prepared to pay the local establishment unpaid by Dalhousie after the failure of supply; and he summoned the Assembly to meet early in 1825. And when Burton sent his estimates down to the assembly, they took the form favoured by Papineau: an unclassified list of charges, a statement of the resources expected to meet them, and a simple request for a grant for the current year to cover the remainder. The ostensible motive for this rapprochement was a desire for gradual change. Ryland recapitulated this in 1826: the government ought to pursue "a conciliatory course which was calculated to bring them, by degrees, to a constitutional and liberal mode of proceeding with respect to supplies for the support of the Civil Government."³² The bill which actually passed was in the form Burton had asked,

but as it eliminated £3,330, it clearly infringed on the imperial policy that the Assembly must not reduce charges which the imperial authorities were determined to pay from the permanent revenue. John Richardson denounced the measure, but his formal protest garnered the signature of only one other Legislative Councillor. Plessis had mustered James Cuthbert, with six elderly Canadiens -- two literally carried into the chamber -- to supplement his "holy alliance" with Perceval, Ryland, and Hale. William Smith capitulated to the "reigning power", John Caldwell remained discreetly silent. Sewell admitted that the bill was technically legal and declined to take sides; William McGillivray, who would have supported Richardson, was too ill to attend; Roderick McKenzie of Terrebonne quit the capital in disgust when he heard what Burton intended. Two councillors from Trois Rivières, Matthew Bell and Isaac Coffin, joined the majority reluctantly because of Burton's earnest pleas for their support.³³ Despite opposition from much of the British community in Montreal, opinion at Quebec was generally enthusiastic over Burton's achievement. Only the attorney-general voted "no" in the assembly; only the official Gazette whose editor owed Dalhousie much personal gratitude and £1,000 besides, spoke against the compromise. Neilson recalled afterwards that "the whole country was in a state of joy at the end of our difficulties." The Mercury lauded Burton's diplomacy:

It must afford him the most gratifying sensations when he reflects, that he has happily succeeded in bringing together the contending parties...under his auspices, this happy arrangement has been effected.³⁴

Even the Montreal Herald praised the Assembly, though it continued to doubt the legality of the Bill. And John Simpson, an English-speaking supporter of Dalhousie from the district

of Montreal, wrote to the Governor to plead with him to acknowledge the compromise. Our debates, he said, showed unconstitutional intentions but the journals and the Act itself were innocent of irregularity. Credit for the good result, he hastened to add, belonged to the 23 new Assemblymen and not to the new head of government. But the measure must be allowed to stand: "it may be considered as the first dawning of sober reason on the part of the House and as a promise of perfect sanity for the next session. I freely hope therefore that the Financial difficulties of Lower Canada may be 'consider'd as approaching their termination."³⁵

Simpson spoke for the majority of English-speaking Lower Canadians, who were disgusted with conflict between the two chambers and could see very little in the civil list issue to excite their own cultural uneasiness. But Burton's action involved more than just the colony; it implied that the Colonial Office had been tyrannical or frivolous in demanding a more permanent appropriation, or that the rigid policy of previous years had not been devised by the Colonial Office at all, but by the local executive sheltering dishonesty behind the prestige of the King's name. In fact Dalhousie had not been repudiated: Burton had merely ignored the instructions of the Colonial Office for the previous four years, including one despatch received by Burton himself while administering the government. His defence of the bill, that "the Assembly have decidely acknowledged the right of the Crown to dispose of the Revenue arising out of the 14 of George the 3d" was a lie.³⁶ The Colonial Office was faced with the choice of repudiating either the Governor or the Lieutenant Governor; and despite Burton's strong influence and popularity, Bathurst did no more than tolerate the bill for the present and order a return to past instructions in future. He had little choice, short of letting an underling dictate policy, then finding a new Governor for Canada.

Burton was accordingly reprimanded, and Dalhousie went back to the colony with renewed instructions to maintain the rights of the Crown. But there could be no return to the peace of 1823. Both sides had tasted compromise, and only some Montreal merchants, Sewell, and a handful of younger men continued to stand by Dalhousie. The Executive Council was becoming cold and dilatory in handling the routine business referred to it;³⁷ the Assembly treated Bathurst's despatches with disdain, accused Dalhousie of suppressing documents which would exonerate Burton's policy, and in the winter of 1825-26 passed a supply bill identical to the previous one. The Legislative Council, deprived of Burton's blandishments and whipped into line by Bathurst's despatches, took the unprecedented step of amending the supply bill, which naturally died in the Assembly. But there was no spirit of defiance, no will to fight. Richardson, Sewell and Stuart all advised Dalhousie not to dissolve the Assembly: "the utter ignorance of the Electors could not make any distinction in their choice, the same individuals would be returned [and] any measures to relieve the present state of things effectually must spring from the King's Govt at home. nothing was to be obtained of the Legislature here."³⁸

The King's Government was receiving conflicting advice from W.B. Felton, a prominent land-holder and developer from the townships who was sent to London in the summer of 1826 to advise the government on trade policy on behalf of the Montreal merchants. He also advised on constitutional matters:

Much of the opposition and difficulty experienced in conducting the government heretofore may have been occasioned by the adherence of the Executive to the principle that all persons employed in the service of the public ought to look up to the Crown alone for the payment of their Salaries; in

practice... it has been customary to consider the Speakers of the Legislative Council and Assembly.... the Staff of the Militia, the schoolmasters of the Province and several other local offices, as solely dependent on the Crown both in respect to appointment and the amount and continuance of their Salaries.

This, said Felton, would never fail to irritate "any body pretending to exercise functions at all analagous to those attributed to the popular branch of the Legislature in England." He proposed to concede all the Crown revenues outright in return for fixed quarterly payments from the legislature to the executive.³⁹

Felton's proposal, potentially inimical to the high constitutional principles of the leaders of the group to which he belonged, became the basis of a despatch to Dalhousie by Bathurst's successor, Lord Goderich, in 1827. But the financial question, as Dalhousie had predicted, was not to be settled in Lower Canada. The Assembly in 1826-7 produced no supply bill at all; Dalhousie dissolved it and made up his mind not to accept Papineau as Speaker in the new one. The elections went against the government; Papineau was presented by the new house, and rejected by Dalhousie. The refusal was a harsh experiment, but was justified by two of Dalhousie's preoccupations. First, he was no longer interested in getting an accommodation with the Assembly, but in provoking the Colonial Office to increase the efficiency of government and the influence of the executive. Dalhousie's second preoccupation, reflected in his rejection of Papineau, was that the refusal seemed constitutional, though very rare. Blackstone's Commentaries asserted that the King's assent as well as the House's election was needed to qualify a Speaker; this assent had been refused in the

past -- a rather shaky case in England under James II, a shadowy one in New England early in the eighteenth century, and a firm and satisfactory precedent in Nova Scotia, well within living memory in 1806. None of these precedents satisfied the Assembly, which denounced the royal prerogative of approving the Speaker as a mere form, incapable of being asserted. The Assembly was quickly prorogued, the session of 1827-28 did not take place, and Dalhousie's gubernatorial career ended in ruins.⁴⁰

The struggle over the civil list continued under Dalhousie's successor, the administrator Sir James Kempt. More dignified than Burton, more flexible than Dalhousie, Kempt had governed Nova Scotia since 1820, and though he was older than Dalhousie he shared the attitude of the new breed of soldier-governors, typified by Sir John Harvey, an officer on the brink of a long career of government in British North America. In 1829 Harvey wrote to Dalhousie about Kempt's mission,

If the King's Govt think fit to adopt the views of the Assembly of Lower Canada, in God's name let them honestly say so to their Governor, to whom it must be a matter of Comparative indifference what is the line of Policy which he gives effect to.⁴¹

Here Harvey exposed the root of Dalhousie's problems: he had attached himself, politically and emotionally, to an idea and a party which seemed intimately connected with British interests in Lower Canada. As long as this party -- the Montreal "British" party with its eagerness for economic expansion -- expressed political views in a manner which conformed to the policy of the home Government Dalhousie's position was tolerable, but after 1826, and particularly after Bathurst, it became clear that the Colonial Office was groping for a new direction and that Dalhousie had become an encumbrance, wedded to the notion that the Assembly could not

be trusted to govern wisely, and the people could not be expected to elect better representatives under the existing constitution. Shifting alignments in the British House of Commons, as much as the obvious bankruptcy of the Dalhousie-Bathurst policy, made it impossible for the new incumbents of Downing Street to carry on as before.⁴²

Dalhousie might believe that the colony could never prosper as long as Canadiens ruled in the assembly, but men as diverse as John Simpson of Coteau du Lac, Herman Ryland, and Thomas Cary of the Quebec Mercury had proved, during Burton's administration, willing at least to leave the question open, and such a conservative figure as Felton was advising the Colonial Office to pay more attention to the Assembly's regard for itself as a House of Commons. So there were at least modest prospects for success when in 1828 the new Colonial Secretary, Sir George Murray, instructed Kempt that "under the existing law, the Executive Government of Lower Canada cannot be relieved from a state of virtual pecuniary dependence upon the Assembly by any constitutional means, and methods of a different nature must not be resorted to."⁴³ In January 1829 the Chief Justice reported to Dalhousie that Hale, Ryland and Caldwell had capitulated to this view; Sewell professed deep contempt for those who invited all British settlers to throw themselves under the wheels of the "Car of Juggerhnaut", the power of the Assembly. Within a matter of weeks he himself had crossed over. Richardson was absent in Montreal when by a vote of 9-7 the council passed a retroactive supply bill for 1828 framed like that of 1825; and then the supply for 1829 was voted by a controversial margin of 8-7, with Sewell voting twice, once as a member to force a tie, and again as chairman to break the deadlock and see the bill through to Kempt's reluctant approval, and the even more reluctant assent of Sir George Murray.⁴⁴

The supply bill of the following year was a landmark; it was the last sent up to Kempt, who left the colony late in 1830; it was the last voted on the plan of 1825; it was also the last session of the legislature held with a tory government in London. It is therefore worth examining the structure of the vote in the Legislative Council on the supply bill as the end of an era in imperial policy, as well as the end of a phase in the local struggle. Once again the double vote of Jonathan Sewell passed a bill similar to that of 1825. Voting for the bill were Sewell, receiver-general Hale, Herman Ryland, John Caldwell, James Cuthbert, Jean-Thomas Taschereau, and Louis R.C. De Léry; against these seven stood Richardson, Grant, Toussaint Pothier, Matthew Bell, Louis Gagy, Felton, and Judge Edward Bowen. The chamber was in no sense an accurate representation of either the politically articulate population of the colony or the "British party", but some interesting trends can be detected. (A vote for the bill favoured conciliation of the Assembly; it did not necessarily endorse autonomist policies.) The tendencies are interesting, if not wholly surprising. Murray's conciliatory policy was rejected by two-thirds or more of the Montreal, Trois Rivières and townships members, townships landholders, and commercial men. It was rejected also by less striking majorities of the British-born and of Protestants. The seigneurial interest and small Catholic membership voted strongly for conciliation. The voting of placemen is interesting, but misleading; Richardson's £100 as Executive Councillor was a negligible part of his income; Felton was independently wealthy, and his official salary was not paid by the Assembly. Sheriff Gagy received only £150 of his large income from the Assembly, the rest came from fees. Only Judge Bowen of Quebec voted against his main source of income. At the same time a vote against the bill might have had serious consequences for Caldwell. Altogether the bill

gave £5400 to those who voted for it, and £3,137 to those who were opposed. If one regards Caldwell as dependent on government, and Richardson and Felton as independent, two-thirds of dependent Councillors voted with the Assembly and the Administrator. Papineau's measure had been carried by the very men whom he considered unfit to hold seats in the Council at all.

iv

This discussion suggests some interesting conclusions about the supposed alliance of merchants and bureaucrats in Lower Canada's politics. The civil list under Dalhousie's régime, and under Kempt's, was more rigidly supported by the merchant aristocracy of Montreal than by the officials whose pay was at stake. The dramatic defection of Sewell in 1829 can be explained by the accompanying change in imperial policy, but the Chief Justice was only crowning a long tradition of bureaucratic willingness to conciliate the Assembly rather than confront it. Perceval in 1821, Ryland and Hale from 1825 at the latest, and a majority of high placemen after 1828 were willing to let the merchants fight their battle for them, and in the end to disown the cause altogether.

Both groups, or at least the most conspicuous spokesmen for each, were broadly united in defence of the colonial constitution as they understood it. Both were under-represented in the Assembly, and the merchants had been willing to co-operate with the officials during the 1810s and 1820s, when judges and bureaucrats outnumbered merchants and seigneurs in the Council. But the interests of the merchants were always closely linked with the idea of change, while in many respects the officials were merely interested in returning to the quiet old days when the seigneurs and clergy ruled the habitants and salaries were paid punctually. Peace, not

progress, was the bureaucrats' chief concern, and peace meant a reconciliation of the officials' interests with the plans of the Assembly and the Colonial Office. 1826 showed that the opinion of the Colonial Office (not of the Governor) outweighed all personal preferences, and 1829 drove the point home more firmly. By 1828 the old alliance based on nationality was being publicly denounced by the merchants:

We have had frequent occasion to allude to the commencement... of an Oligarchy in the Government of Lower Canada, which, if firmly established, would have enabled the Country to vegetate in tranquillity, but would never have been essentially useful in anglifying the Province, and in rendering it a British Colony in fact, as it had been for half a century in name.... This Junta,... being the only Association which would tolerate the smallest innovation upon the French and Feudal Laws, its power was generally supported, or at least not reprobated, by the Merchants and Inhabitants of British origin. This anomolous body... must always exist under the present vicious constitution, so long as British ascendancy or influence shall not entirely depend upon Military Force.⁴⁵

This repudiation of the alliance as a regrettable outcome of a vicious constitution, came to dominate the sentiments of non-bureaucratic members of the British community of Lower Canada. Indeed, Robert Christie alleged that as early as 1823 the whole non-official part of the English-speaking population was out of sympathy with the bureaucrats, but muted this hostility because of an even stronger dislike for the nationalism of the Assembly. By 1834 the so-called alliance was completely in tatters, and since the following words were written by a new-comer to the colony, they may be viewed as a received opinion, not a personal one. The

British colonists, wrote Adam Thom, "mostly ranged themselves of the side of a vacillating and treacherous executive against the deadly enemies of... British interests. For want of a collective voice they could not, as a body, proclaim any intermediate and independent opinion." The inference was that they had always wished to do so.⁴⁶

The alliance between merchants and officials had functioned best before 1810, when profound fears were felt for the external security of the colony; in reality, outside that context, it was an alliance not specifically of the two groups with each other, but of both, separately, with the Colonial Office and British Government. The outward appearance of alliance was eroded during the twenties, first by the debate over Canadian reunion, which the bulk of officials distrusted as an unnecessary irritant to the Canadiens, partly by periodic sniping at Michael Perceval, who was unpopular among the merchants in both Councils, and finally by the defection of the British government from the high constitutional stand of Bathurst and Dalhousie. After 1828 a few correspondents told Dalhousie that he was much regretted by all the British colonists, but it is unlikely whether this stood true except for a few younger journalists, sycophants, placemen, and John Richardson.

For by 1830 'toryism' revolved around Richardson. His main rival for leadership of the English party, Jonathan Sewell, had begun to trim his sails after a quarrel with Dalhousie over patronage and a visit to London in 1826. James Stuart was too volatile to be a leader; it took him sixty years to learn to be more than a henchman. Head and shoulders above all contemporaries stood Richardson. And yet he belonged to the past; to an era when caution and fear, not impatience and optimism, were the marks of a prudent Briton in North America. "I am too old to change my principles, and shall remain firm -- but few may follow my

example."⁴⁷ His brand of political fatalism seems characteristic of eighteenth-century politics, not nineteenth-century commerce. How far did the political rigidity of this highest of the haute bourgeoisie represent the interests of business as a whole, rather than the distinctive interests of the best-established houses in the forwarding trade, and the largest speculators in townships land? The pragmatism and flexibility which enabled the merchants to ride out numerous economic storms, deserted them when they took their seats in the Legislative Council. Birds of passage, the Canadiens called them, and yet they showed far more concern for the long-term constitutional stability of the colony than for the advantages that might be won in the short run by conciliation and compromise. They alone, who had most to gain from economic legislation, failed to believe that the Assembly would act more constructively when its power was established. The attitude of the die-hard merchants in the legislative council in 1830 suggested an astonishing confidence in their ability to prosper despite political deadlock, and a bottomless mistrust of their opponents. Such a view seems characteristic not simply of a minority, but of a powerful élite within a minority. John Richardson, as much as Papineau, spoke for certain aspects of the eighteenth century and left a trail of obstruction and mistrust through the early years of the nineteenth. The highest spokesmen of the haute bourgeoisie, like those of the Canadiens, were still more conservative than innovative in their social and political vision. John Richardson and his supporters were committed to an idea of colonial subordination which even the Colonial Office and its servants in the colony were beginning to shed.

Chapter 4: Constitutional Breakdown, 1825-1828

i

With the return of Lord Dalhousie to Lower Canada, politics entered a new and dangerous phase. Early in 1826 a session of the Legislature was wasted in raking over the coals of Burton's administration, the Assembly doing its best to persuade the people that the Colonial Office had not condemned Burton's measures at all. Then in 1826 the grain crops failed, and a slump in the timber trade began in the same year. But there were also Huskisson's reforms of the old colonial system, reforms which in general were welcomed by the colonial merchants, who saw in them their own favourite mixture of free trade in principle, modified by protection in practice for colonial produce against Baltic and American competition. But protection was more necessary now; the St. Lawrence system was challenged in 1826 by completion of the Erie Barge Canal, while the American administration continued to talk of seeking free navigation of the St. Lawrence. In Montreal, therefore, the general spirit was one of caution and apprehension. Some leading merchants tried to stimulate, through civic government, a spirit and habit of cooperation between British capitalists and leading Canadiens. Their effort to create an alternative to the old uneasy alliance between capital and bureaucracy was scotched by the mutual hostility of the Assembly and Council. Despite the anxiety of some to transcend cultural and political differences, the return of Dalhousie and the economic troubles of 1826-27 combined with the stagnant policies of the Colonial Office to deepen the hostility between patriotes and the

executive. No supply bill passed in 1826, 1827, or 1828. The Assembly was dissolved prematurely in 1827, and no regular sessions were held between March 1827 and November 1828. Despite the harmony of 1824-25, colonial society continued deeply divided between those who trusted the government and those who were anxious to check it.

ii

The complete collapse of relations between the executive and the leaders of the Assembly invites an examination of the ideological chasm between the two groups. This line of investigation is encouraged by the developing debate over the character of the political philosophies of ruling élites in British North America. This debate has so far skirted the Lower Canadian colonists, perhaps on the assumption that in the 1820s they were an English head poorly grafted onto a French body, and racial differences made it unlikely that attitudes would flow from one into the other. This may be true, but need not stifle the examination of what was going on inside that head, and to assess the importance of political ideas as an element in the clash between the patriotes of Lower Canada and the imperial centralists in their midst.¹

The study of this subject must take account of Durham's remark that the colonial tories were really frustrated liberals, backed into insincere conservatism by the democratic rhetoric and tactics of their locally more numerous opponents. This was broadly true by 1838, and true of some prominent individuals in the twenties. A quondam president of the Bank of Montreal wrote a book in 1828 to explain his anti-popular views to his liberal merchant friends in England, arguing that when democracy was used to buttress feudalism, lovers of true freedom must seek strength wherever they could find it.² But this was not the only grounds

for opposing the patriotes in the twenties; not all the colonial tories were closet liberals. Their political ideas could not all be shaped by reaction to the French Canadians, for many of them were strangers to the colony until they arrived as adults. Richardson, Sewell and others had been profoundly affected by personal experience of the American Revolution;³ others like Judge Kerr were products of British upper-class society in the late eighteenth century. All had learned to mistrust democratic ideas and republican régimes in the decades between the execution of Louis XVI and the Treaty of Ghent. Their special position as an influential élite in Lower Canada helped to keep them conservative in an age of popular turbulence; it was not required to make them so in the first place.

There was little doubt in the minds of Dalhousie's supporters that the Assembly hoped to establish a French republic, and had learned nothing from recent events in France itself. After 1822 the Assembly reassessed the relevance of British forms to Canadian conditions. Leading Assemblymen began to declaim not merely on the privileges of the Commons, but on the quite different doctrines of natural rights and popular sovereignty. To François Blanchet the Dalhousie régime was "un état contre nature qui ne peut pas longtemps exister" and to Jacques Labrie the British constitution itself needed to be re-interpreted, especially for "l'instruction politique de la Jeunesse Canadienne". His pamphlet undertaking this task declared that the King was the first servant of the people, with duties to the laws but no inherent powers; his honour and glory were received from the sovereign people as a reflection of their own majesty. The people did not actually compose any of the three branches of the constitution but -- what was more important -- they provided and inspired all three.⁴ Consequently, Judge Kerr saw the Assembly in 1828 tending towards that state of

corrupted democracy described by Montesquieu, in which the people delegated power to various officials then nevertheless tried to dictate the deliberations of the senators, the regulations of the magistrates, and the verdicts of the judges. The Quebec Mercury complained in 1827 that "By and bye it will be 'illegal' to question their right to organize a provisional junta for the assumption of the Civil Government" and David Chisholme perceived in the local Assembly a determination distressingly like that of the Rump Parliament in 1648:

That whatever is enacted or declared for law by the Commons in Parliament assembled, hath the force of law; and all the people of this nation are concluded thereby, although the consent and concurrence of the King or House of Peers be not had thereto.⁵

One of the most remarkable anti-liberal political thinkers of the decade does not fit easily into the traditional moulds. Chief Justice Jonathan Sewell was born in pre-Revolutionary Massachusetts, he was educated at Bristol, and moved to New Brunswick in 1785. His ideas were strongly anti-democratic but assimilated French traditions to the idea of a centralized British North America. One of the decade's most interesting political documents is Sewell's Essay on the Juridical History of France, So Far As It Relates to the Law of the Province of Lower Canada. This paper traced the roots of the French legal system up to the establishment of the Sovereign Council at Quebec in 1663. Sewell criticized feudalism; he admitted that it suited a society constantly at war, but in peacetime it encouraged an unhealthy growth of power in the great nobles. In contrast to the proliferation of local (in origin, tribal) legal codes and the power of local magnates, Sewell represented as a laudable development the growth of royal authority in the courts of justice and,

after 1190, in making laws for the whole Kingdom, standardizing procedures in matters of common concern. The Crown, it was clear, was the source and focus of the subject's protection from the arbitrary conduct of nobles and the Church. It is striking, considering the intellectual and social ferment in which Sewell grew up, that the written record of his opinions and beliefs shows little influence of any political theory developed in Europe after the fifteenth century.⁶

Many colonists looked for guidance and support to William Blackstone, or to Montesquieu. The importance of Sir William Blackstone's Commentaries to conservatism in the rest of British North America is emphasized in the work of S.F. Wise.⁷ Blackstone's work was cited approvingly by Dalhousie in a memorandum on municipal government, and by the journalist David Chisholme in an essay on the royal prerogative.⁸ Blackstone was an attractive source book for conservatives in Lower Canada. His notion of a balanced constitution was congenial in itself; his Commentaries, unlike the writings of Locke or Voltaire, did not merely espouse a philosophical system but defined constitutional law through statutes and precedents. Third, Blackstone's endorsement of prescriptive legitimacy was peculiarly relevant to advocates of strong imperial initiatives in the colonies, where the prerogatives of the Crown were less compromised than in England by conventions and Acts of Parliament. In Canada, the power of the executive was the power of Britain; the Governor was loosely called the representative of the Crown, but he was actually a representative in the sense of being an agent, not a counterpart or imitation in the same way as the Assembly "represented" the House of Commons in the colonial adaptation of the British

constitution.⁹ The Governor did not embody a hereditary tradition with deep roots in the local soil, but carried out in the colony policies dictated by the collective wisdom of all three estates of the British Parliament, as distilled by the Colonial Secretary. The position of the Governor was not established by ancient custom, but by sentiment, trade and legislation. Hence the importance of the surrender of 1759 and the cession of 1763 to Lower Canada's conservatives. Appearances to the contrary, the colony was not an autonomous fragment set apart by geography and fallen into the lap of the British empire by French lassitude; it was an integral part of the British nation, held by an unbroken link of legitimate succession from its possessors since 1608.

The imperial link was also important to British conservatives in Lower Canada because it imported the doctrine of élite rule into a country where egalitarian ideas had been encouraged by an abundance of cheap land. But the imperial tie was also important to others who took little interest in political dogma, men to whom a strong and confident executive in the colony meant commercial preferences and imperial loan credits, and contracts for masonry and food-stuffs. Yet these men were not on the "conservative" side purely out of concern for their purses. They argued public affairs in Blackstone's language, preferring the constitutional law of England to the natural law of the enlightenment, because they believed in the right of property to govern and in the need for sovereignty to reside somewhere other than in the people. Hence they supported a mixed, dependent constitution.

Many supporters of the administration made political statements which it would be difficult to trace to any of the main streams of political thought in either Europe or the United States. This was partly due to the colony's hybrid constitution in which the franchise was more

democratic, and the executive more independent of the local legislature, than in Britain. Many of the administration's followers were critical of the British representation. The Mercury in 1820 enthusiastically endorsed Lord John Russell's efforts to reform parliamentary representation, and a leader-writer in the Montreal Herald made some interesting remarks on the colony's own franchise. The passage was written during Upper Canadian elections, and deprecated the rise of American political tendencies, but the writer was obviously looking over his own shoulder towards Quebec. The "constitution of suffrages is framed upon a wiser principle with us than the methods adopted by any other nation" he wrote, then devoted a long paragraph to the elector's responsibility to use his vote to support good measures within the spirit of the existing constitution. He would be indulging in "the most detestable and despicable spirits" if he let private interests or an "abstract question of political tendency affect his vote." When he approached the polls he must remember his status both as a free individual and as a member of a corporate society defined by its common allegiance: he was voting as the "representative of his own personal rights and property, as a member of the polity which authorized him to vote," but he was also "the friend and supporter of the constitution and monarchy of his country."¹⁰ This was philosophical tight-rope-walking, a demonstration (perhaps deliberate) that Lower Canada's English-speaking community had become a sort of intellectual dust-bin in which scraps of many political theories lay jumbled together, carried to the colony by a promiscuous mixture of immigrants, most of whom realized that political rigidity was neither wise nor necessary.

The clash between the traditional and the new economic systems in Lower Canada was intertwined with the ideological debate, but it was not the cause of it. The

Montreal Gazette struck this note in the leading article on New Year's Eve, 1827: "British subjects.... have seen all attempts at improvement, all changes or ameliorations systematically opposed." Yet the conviction remained in most minds that obstruction of capitalist development by the patriotes was a tactic rather than an ultimate goal; solving the ideological problems would make the economic one go away. Even in the depths of the political crisis of 1827 there was the anomalous gesture of a legislative grant of £25,000 to the Welland Canal, a project whose importance was remote to Lower Canada except to the forwarding merchants of Montreal. That city's Gazette in 1828 explicitly turned its back on the idea that the crisis was rooted in a struggle between two economic systems. Of all the colony's troubles, it said, "the first and most important" was the control of the executive through the civil list, which confronted the colonists with the contest of local control against imperial guidance, and of unchecked democracy against the balanced constitution. This constitutional question, said the Gazette, was the "futile source" to which "all the other difficulties might fairly be traced."¹¹

Unchecked democracy was the enemy which all supporters of the executive opposed. British conservatism, economic opportunism, and muddled thinking made up the basic motivations of the colonial "tories", as they are commonly and misleadingly called. But it remains broadly true that even those who supported Dalhousie out of a sense of expediency could not conceive of a government operating efficiently or justly if it was founded on popular sovereignty; "democracy" was a relatively neutral thing as long as it was kept within its sphere in one of the branches of the Legislature. But when democracy threatened to burst out of the Blackstonian equilibrium, which it regularly did in Lower Canada, Dalhousie's supporters were obliged to stress

the non-parity of the colonial and the British constitutions: "considering the rank democracy in the Lower House" said the Mercury in 1828, "the aristocratic Branch cannot be too governmental."¹² An important series of letters from "Senex", who was probably Richardson, appeared in the Montreal Herald in 1825, of which the following extract is typical:

The Assembly apparently aim at... two things incompatible with each other -- the power of the executive, and the check upon that power, which, put into the same hands, would produce practical tyranny in its worst shape, as being wielded by a popular body, necessarily capricious from being fluctuating.

David Chisholme was more outspoken in 1827: "All power without a check is despotism: and of all despotism none is so barbarous and hopeless as that of the Populace. It is a tyranny without the possibility that the tyrant should ever be good or enlightened."¹³

Recollections of the French Revolution and of England's experiment with a unicameral legislature both reinforced suspicion of the patriotes. But unique circumstances within the colony gave added force to this sentiment, for the legitimacy of the leaders of the Assembly as spokesmen for the people was suspect. This was simultaneously reassuring (the people were truly loyal and peaceful) and yet worrying, because "the multitude of every country is giddy, and there are always self-styled Patriots ready to blow the coals". Even if the people were sound, there was a process of deception at work in the colony. According to the Montreal Gazette in 1826, the Assembly did not contain the "true representatives of the people" but "a number of individuals pretending to that high honour, and strutting about in all the coxcombry of legislative authority." But

"illegitimacy" was the hall-mark of their views, and "illegality" that of their measures. "Demagogues," whether French like Papineau and Cuvillier or British like Neilson and Leslie, played on the fears and prejudices of the people; and they were ruining the colony by debasing the stability of its constitution, threatening its connexion with Great Britain, and squandering opportunities for economic security and progress.¹⁴ These were not the legitimate leaders of the people: the people were peaceful, happy and secure, they had little need for leaders and were imposed upon by lies about imaginary threats to their land and their religion. This point was crucial to the supporters of the executive in Lower Canada: they did not see their constitutional stance particularly as a desire to "turn a racial minority into a political majority."¹⁵ They took minority control for granted. The majority of colonial subjects were illiterate; they might have a nominal independence through possession of property, but in other respects they were as politically incompetent as the disfranchised classes in Britain or in Ireland. The political struggle in Lower Canada was not, therefore, between an oppressed majority and a privileged minority; it was seen by the British as a fight between two urban, articulate minorities for the right to protect and to forward the interests of the majority.

According to this view, the advocates of popular sovereignty continued to be elected to the Assembly because they spoke the same language as the undiscerning electors, who had no practical grievances or aspirations to drive them to a closer scrutiny of their politics. "To complain," wrote Judge Kerr, "of the age in which we live, and to murmur at those in power, are the common dispositions of the greatest part of mankind." John Caldwell represented the bulk of the representatives as "possessed of scarce any discretion of their own" and he correctly perceived that the constitution of England was bound to work in unfamiliar and perhaps

damaging ways

when brought into action with reference to a people speaking a Foreign Language, deeply imbued with Foreign Prejudices, and necessarily deficient in that Political Education, which can only be the gradual result of the operation of moral causes and the enjoyment of Practical freedom thro' successive generations.¹⁶

Catholicism was widely believed to inhibit the sort of personal independence which enabled men to participate rationally in free political institutions. The damage was completed by the fact that the Government had nothing to offer either the habitant or the country gentry in order to set up a counterpoise to the patriotes. In Lower Canada there was no one in the country district with any vested interest in denouncing unchecked democracy and explaining to the people that the Governor's schemes for road-building and municipal government were honestly designed to improve the habitants' standard of living.

In the view of the staunchest supporters of the administration, the illegitimacy of the patriotes' electoral victories did not stop at the door of the Assembly; the hierarchy of deception operated within that body itself. Dalhousie's popular predecessor, Sir John Sherbrooke, in a passage both warning and commiserating, wrote in 1822 that

In an Assembly constituted as yours is, where many of the Members are totally uneducated & consequently easily imposed upon, & misled by prattling Attorneys, & designing Demagogues, It requires great patience & moderation as well as perseverance & firmness in a Governor, to carry a measure however beneficial to the Country.

Dalhousie himself wrote in 1827 that "There are in that House many men of respectable character who have submitted to be led blindfolded."¹⁷

The local constitution was an experiment, and it was apparently failing. But having been started, it could not simply be cancelled. R.A. d'Estimauville wrote in 1829 that the constitution of 1791 could be compared to

the idea of feeding new born infants with roast beef and plum pudding. However, the evil is done and the stomach of the Canadians is too well accustomed now to that noble British food to relinquish it. You have improvidently given them a British Constitution and it would be next to an impossibility to take it back from them.¹⁸

Yet optimism remained among the governing classes. Hope lay in improved communication between the government and the people, to correct the deficiency whereby, in Dalhousie's words,

I have no means of conveying to the mass of the people in the country parishes (who are quiet and well disposed) such vindications of the character or the measures of Government as are from time to time rendered necessary by the false and mischievous assertions of the French Press.¹⁹

Other observers felt that increased social and political contact between the two races' élites would promote a better understanding. W.B. Felton thought in 1826 that a measure to allow the Eastern Townships a few representatives in the Assembly would put a large enough English minority there to create an atmosphere of real debate and discussion and so separate "the natural leaders of the Canadian people from the demagogues of the Assembly." In 1829, when the Assembly sent up a bill to give the townships eight members and the seigneuries a further 32, a majority in the Legislative

^{approved it}
Council, moved by the belief as Judge Kerr recorded, that in a larger house the patriotes would decline in importance.²⁰

The political ideas of the supporters of government can be generalized in this shape: the British constitution as installed in the colony was a wise and potentially useful instrument. But of the three elements in Canada as in Britain, the one most to be feared was the democratic one. In Lower Canada society was uniquely vulnerable to this hazard, for the people's language and religion disposed them to be swayed by deception, neither the "aristocracy" nor the Crown having sufficient influence to check this effort to take power without responsibility. But it was possible to reverse this process by increasing contact between the two races.

iii

Not only Dalhousie sought to influence the Canadiens by persuasion and co-operation rather than by the tactics of confrontation worked so skilfully by Papineau and clumsily by Richardson. Just as opinion at Quebec applauded Burton's compromises, a faction at Montreal was trying to shake off traditional divisions in politics. This movement was led by George Moffatt and Peter McGill. Moffatt was Durham-born, a forwarding merchant and former Nor'Wester, and one of the founders of the Bank of Montreal. At this period, he distrusted politicians, having no sympathy for canadien nationalism and deprecating every major political move made by Dalhousie in 1827. Moffatt regarded himself as one of those "who desire to pursue moderate measures (and) ... cannot coalesce with either party."²¹ He was in his late thirties, two years older than Scottish-born Peter McGill. Moffatt was destined to inherit Richardson's role as political leader of the British at Montreal; McGill would

follow Richardson as Lower Canada's leading financier. In the twenties McGill often sided with Richardson, conducting a spirited campaign against the patriotes on the financial question in 1827, but on the local issue of civic incorporation, he stood with Moffatt.²²

George Moffatt's first venture into politics was provoked by an open sewer running through the commercial district of Montreal. This was the most conspicuous symptom of the powerless state of the city administration, a board of unpaid magistrates, and pressure mounted for the creation of a more effective civic authority. The Montreal Herald pointed in 1825 to two possibilities -- an elective city corporation or an appointed board of commissioners with enlarged powers. Either would require legislation, and the Herald, fearing the prevailing temper of the executive, advised its readers they would do well to settle for the appointive body. The Assembly persisted in the more popular measure, and its bill for an elective corporation died, as feared, in the Legislative Council.²³

Late in 1826 a majority of the magistrates tried to summon a public meeting to encourage the Assembly to persist in its efforts to obtain a corporation elected annually. This attempt to use the existing civic authority to agitate for incorporation was resisted openly by Samuel Gale, the appointed chairman of the municipal bench. Gale warned his colleagues that "a corporation in Montreal, until the population is more homogeneous & has less of hostile feeling towards what is English will produce a state of things far more unpleasant to the advocates of the measure than any inconveniences they have hitherto felt." In a detailed letter to Andrew Cochran, Gale admitted that Montreal, with a civic revenue about one-third per capita that of other North American cities, was misgoverned, and that many necessary functions of local authorities were beyond the power

of the magistrates. But if monarchical institutions were to survive in Lower Canada, annual civic elections were a democratic menace that must not be contemplated. Some elective corporations did exist in England, but "many checks to the spirit they foster will be found there." At the same time the respectable character of the magistrates proposing the measure made it difficult to oppose them. The French-Canadian magistrates, with one exception, were happy to stay aloof from this agitation and let their British colleagues carry the burden of advocating democratic institutions.²⁴

Although the question persisted until Quebec and Montreal were incorporated in 1833, the proceedings at the end of 1828 belong to this earlier period. Late in November eight magistrates called a public meeting to revive the issue. Moffatt was unanimously called to the chair, and declared his conviction that incorporation would soothe many of the city's social tensions.

Men of high consideration and of the purest principles, and whom he very much respected, were opposed to the measure, on the ground that we were as yet unfit to undertake the government ourselves... owing to the comparative infancy of our city and its population being composed of persons of nationally different origin... difference of origin should be altogether forgotten in the pursuit of their present object, and... they should all unite in promoting the general interest.

Peter McGill countered the anti-democratic argument: "Frequent public discussions so far from being noxious or hurtful are calculated to produce the best and most salutary effect" and the jury system had proved the civic responsibility of Montreal's citizens. In a fascinating argument for assimilation in front of a largely French-speaking

audience, McGill recalled how the early Roman ruler Numa had given the Romans and Sabines common civic institutions so that the Sabines had ceased to be distinguishable from Romans; and he hoped a similar fusion would occur at Montreal. The Gazette did not record how the Canadiens reacted to this, but Robert Nelson, their new champion as MPP for the West Ward, declared that the measure of 1826 had only failed because "our late Governor was not a Numa." A committee of twelve Canadiens and nine British was struck to bring the matter again before the Assembly. The incorporation bill was thrown out by the Legislative Council again in 1829 and 1830. There was still ample opposition in the colony to the moderate merchants' ambition of achieving racial harmony through civic democracy.²⁵

If democracy could not be tolerated in that city of the Province where British capital and population were most entrenched, it was energetically resisted at Quebec where the legislative machinery was immune to British and capitalist stimulation. But by 1827 the initiative had passed out of the hands of the old groups of bureaucrats and merchants. The summer crisis of 1827 was a crisis of Dalhousie's own making; his decision to dissolve the Assembly seems to have been taken entirely on his own. His instructions from Bathurst did not contemplate more than prorogation; his papers show no correspondence on the subject. His Executive Council, sunk in apathy from a sense of its uselessness, approved the dissolution with one dissenting voice. Probably James Stuart relished a fight; Cochran surely did not. Jonathan Sewell was in England; at Montreal, Richardson was silent. The forces of conservatism were timid; Dalhousie rebuked a prominent Montreal K.C. who refused a seat as magistrate: "I regret to say that those who ought to stand forward in trouble are precisely those who shrink from all trouble in these times." There was no

party organization to fight the elections for the governor. Cochran reported from Quebec just after polling began, "I am sorry to hear that the English and mercantile interest in the Lower town remains very inactive & indifferent." At Montreal, the end of voting provoked these reflections from an unnamed writer:

While the French Canadian faction shew much subordination to their leaders, the mixed multitude here called English, say Scotch, Americans, Italians, Germans, Jews & a few Irish orangers, are entirely divided and without any plan of party organization, rendering all efforts possible within the country totally inefficient unless the strong arm of the Imperial Government be stretched out....²⁶

It was distinctly Dalhousie's election, brought on ahead of its proper term to bring the crisis to a head and force imperial intervention.

This is not to suggest that Dalhousie intended to lose the election -- merely that winning it outright was secondary to the great task of changing the balance of political power. When Dalhousie prorogued the Assembly in March he noted that when a new one met he would insist on a new Speaker and in April he wrote Horton a long and detailed despatch on the present Assembly and the compromise that might be reached with a new one. He enclosed and approved of an anonymous memorandum which proposed an Act of Parliament to give up the permanent revenues, conditional upon the legislature first passing a suitable civil list for the life of the King. The defection of Andrew Stuart from the patriotes seemed a good sign for the future, and patronage and common sense might divide that party further. Dalhousie had already ordered the translation of an able pamphlet on the financial question, and it had been

distributed to all the French-speaking members of the Assembly. A judicious mixture of persuasion and strong support from London might end the prolonged troubles of the twenties.²⁷

The election was fought by the patriotes as a personal challenge to Dalhousie; the campaign really began at prorogation in March, when eight Montreal-area MPPs issued an address claiming that Dalhousie was oppressing the people and misrepresenting the British government, and closed with the vibrant lines, "Public opinion is in itself a power to which the greatest functionaries are amenable in all cases, even when the Laws, in their ordinary course, cannot reach them." In mid-July a large public meeting was held to choose a new candidate in Montreal's West Ward. The first candidate proposed by D-B Viger was George Moffatt; he demurred. He disavowed Viger's remark that he shared all the principles of the popular party, and said if he did become an MPP "I should enter... unbiassed by any party... I would pursue an independent course." The meeting was marked by a violent speech by Cuvillier, demanding "shall we continue to be hewers of wood and drawers of water for those who reside at the chateau?" The city continued its custom of returning a British member in each ward, but even these were patriotes. James Leslie continued to sit for the East Ward, and the new member in the West was Robert Nelson, whose political career of unflinching opposition would culminate in his defying even Papineau in 1838, and proclaiming himself president of an illusory Lower Canadian republic. In 1827, Papineau had nothing to fear from these colleagues. Political propaganda on the government side concentrated on the traditional themes of economic development and prescriptive legitimacy, but Papineau's appeals to national origin and popular sovereignty carried the day.²⁸

The city's Irish population first came to prominence at this election; Bishop Lartigues' Irish chaplain and gardener

were conspicuous in the campaign, and speakers all over the city persuaded Irish voters that the executive at Quebec was identical to the repressive regime in Ireland and hoped to levy new taxes and oppress the Catholic church. The Protestant Irish replied by calling a public meeting at which a Mr. Johnston gave a staunch conservative discourse on the civil list and the leading speaker, Henry Driscoll, advocated Catholic emancipation in Britain but accused the patriotes of

selecting amongst the lower classes of the Irish, influential persons, dubbing them chairmen and committee men, intoxicating them by the novelty of pseudo importance, and securing their services by flattering their vanity.... a cidevant footman... was invested with the dignity of chairman, and the prominent orator was a gardner, better had the one confined his exertions to Day & Martin's liquid blacking, and the other limited his superintendence to cabbages, potatoes, and other useful vegetables.²⁹

At the western extremity of the province was the county of York, one of whose members, John Simpson, had supported Burton but joined the minority against Papineau in March, 1827. The other member, Dumont, had just been promoted in the militia. But at York the conflict over the militia law was brought to a head. The Assembly had sabotaged an attempt to renew expiring militia Acts, so that the more strict old permanent ordinances were revived. On spurious grounds, leading Assemblymen declared that the old ordinances were repealed and no militia existed; the summer musters could be ignored. Then Dalhousie conducted a general revision of commissions, cutting out inefficient officers and non-residents, who often included town-dwellers who held commissions in rural areas where their families were influential.

So in York, much of the opposition to Dalhousie was led by senior militia officers; in July Dalhousie dismissed nine officers in York alone, and lesser numbers elsewhere. One Jacob Barcelo offered to swing 200 votes to Simpson and Dumont if he could be reinstated, but the offer failed. Then the patriotes offered to support Simpson if he would denounce Dumont, but the battle continued. The curé, Father Keller, reputedly allowed liquor to be handed out to voters after Mass, and even threatened to withhold the sacraments from parishioners who voted for Dalhousie's candidates. Finally, amid growing threats of violence, Simpson withdrew, declaring that "should this faction prevail -- the contest will soon be for Civil Liberty, which the basest only will survive."³⁰

Downstream from Montreal, the two law officers were contesting borough seats. At Trois Rivières Solicitor-General Ogden nearly lost his seat after a public squabble over a militia commission for one of the prominent Jewish merchant family, the Harts. Other officers thought the boy incompetent and a clumsy, illegal effort was made to revoke the appointment on religious grounds. The death of Ogden's mother on the eve of polling made him personally unable to campaign. But he unexpectedly got the vote of the grand vicaire and was able to displace the second sitting member, Amable Berthelot.³¹ A few miles to the south-west, in the royal borough and seigneurie of Sorel, Attorney-General James Stuart was defeated, 71-68 by Robert Nelson's brother Wolfred. Many voters were obliged to swear to their property qualifications, and an informal poll-book in Dalhousie's papers has "perjured" written after eight names. (Several others are annotated "Traitor", a few merely "bad".) The Sorel election also saw a clash between the local priest, Fr. Kelly, and the Governor. Dalhousie was in residence at Sorel, and was outraged to find Kelly's father working actively for Nelson. Dalhousie was deeply preoccupied by the problem of clerical intervention in politics, so summoned

Kelly to express his disapproval. Dalhousie wished to keep the matter on a personal level, but it leaked out and added to the extreme partisanship of the contest.³²

Two other head-on clashes took place on the south shore of the St. Lawrence. In Buckinghamshire, a British settler named Trigge faced the sitting member, Louis Bourdages. Trigge's hopes depended on a local magnate named Louis Legendre, newly commissioned in the militia. But Legendre pleaded a personal pledge not to oppose Bourdages, so remained silent, and Bourdages beat Trigge by a margin of two to one.³³ Further east, Dorchester provided a struggle between the patriotes and the usually-dominant Caldwell interest. Papineau's brother, curé at the Beauce, was active in the campaign, and the correspondence about this riding provides the richest store of the kinds of rumours the patriotes circulated against government candidates. There were two general rumours -- threats to impose a poll tax on all Canadiens, and to conscript young men for a standing army -- but John Davidson personally was accused of voting for a gift of £25,000 to Dalhousie from the public funds; of embezzling £800 himself; of deserting his wife and children; and of urging the British government to send 15,000 Irish to occupy Lower Canada and starve out the Canadiens. The Mercury complained that

the unfortunate Irish are pressed into the service of the faction in every shape which invention can suggest and those who court their assistance are the same who have hitherto railed against the English Government for... permitting the unfortunate Emigrants... to seek an asylum on this sacred soil.³⁴

At Quebec, the two city wards and the county returned the six old members, but there was an interesting challenge in each seat. As at Montreal, there was a tradition of dividing the representation between French and British. This was

challenged by the partiotes in Quebec, Upper Town, where Andrew Stuart had drawn away from his colleague Vallières and was endorsed by the Mercury. Nonetheless a joint meeting was held to promote re-election of both sitting members, then Amable Berthelot was suddenly brought from defeat at Trois Rivières to stand against Stuart. This intervention (with the candidacy of George Vanfelson, who falsely claimed to be the government candidate) complemented Dalhousie's unusual order that military officers must not vote and nearly cost Stuart his seat; but he led Berthelot by a few votes and the British population retained a share of the Upper Town representation.³⁵

In the Lower Town the canadien member was easily re-elected and an effort to set up a second Canadien against T.A. Young came to nothing. Young's family was well-connected in England and Dalhousie had made him auditor-general in 1826. The Assembly refused to pay him and Young neglected the work, but he voted quite steadily with Tascherau and Stuart. The Mercury supported his opponent Thomas Lee, who had issued an interesting address denouncing the French civil law and seigneurial tenure, but remained mute on the financial question. Cochran reported on 20 July that Lee was defending Dalhousie energetically and would overtake Young. But Dalhousie was disliked in the Lower Town, where the merchants felt he had dishonourably protected Michael Perceval in a case involving illegal fees. The Lower Town took less than a week to humiliate Lee.³⁶

The contest in Quebec county, where John Neilson and Michel Clouet retained their seats, was less hotly contested. The sole challenger was the assistant clerk of the Executive Council, George Ryland, a man conceded no hope at all because his "very name is detested by the Canadians in general."³⁷

The Mercury printed several letters early in July reminding voters that Neilson, the well-liked Assemblyman, was also

Neilson the republican editor, but since his Gazette was bilingual, and at least as popular as the Mercury, and the county voters were 77.6% French, Ryland's position was hopeless; he retired, badly beaten, after five full days of polling. Clouet complimented Ryland on his moderate conduct, and the Mercury commiserated with "The young candidate... [who] stood forward, when older men, tamely prudent, feared to engage in the conflict." Only 12 votes separated Clouet and Neilson: most electors simply voted for the two patriote candidates. One major source of interest is the striking support for Ryland from the Beauport area, where his family was settled. There he polled 59.5% of the votes compared with his meagre 18% across the whole county. A second interesting feature was the reserving of votes by 168 (10.2%) of the 823 electors who voted; of these 134 (79.8%) plumped for Ryland, 30 (17.9%) for Neilson, and only 4 (2.4%) for Clouet. This concentration of plumpers in the Ryland camp is accounted for largely by the political similarity of the two winners and the lack of a second government candidate. Half Ryland's voters plumped for him, but the remainder divided about equally, 71 voting also for Clouet and 61 for Neilson. This last figure showed nearly a quarter of Ryland's supporters (or 7.4% of all voters) also voted for the man at the opposite end of the political spectrum. This sort of ticket-splitting might be explained in terms of frivolity, personal esteem transcending politics, or votes split between the elector's personal preference and a hidden pressure or influence; but the racial factor seems the most obvious one. The other interesting racial note is that 37% of electors with British surnames voted for Neilson. Since all had the right to plump, it seems perfectly clear that here, as at Montreal, British emigration and settlement had not been an unmixed electoral blessing to the opponents of popular sovereignty and colonial autonomy.³⁸

The returns from these seventeen of the colony's fifty seats point to a number of interesting facets of voting patterns, electoral influence and party discipline in Lower Canada in 1827. First of all, patriote party organization was, as Ouellet has said,³⁹ efficient and powerful. It was strong enough to overturn seigneurial influence at Dorchester and Sorel; it was able to mock the tradition of mixed representation at Montreal by electing English-speaking patriotes. Mixed representation survived at Trois Rivières and at Quebec, Upper Town. The Ryland influence evident at Beauport and the correspondence respecting Barcelo in York, Legendre in Buckingham, and the Harts at Trois Rivières all suggest that votes were rarely cast in enormous blocs determined by the direct influence of the leading patriotes with the habitants, but could be swayed by the intervention of local magnates who, as Dalhousie believed, might not be entirely closed to compromise and persuasion. On the other hand, Dalhousie's "passive" new bishop proved worse than useless; Panet's weakness in 1827 permitted the most blatant episodes of clerical intervention under the constitution of 1791.⁴⁰ The racial factor in the election was complex, but it is safe to say that the existence of British patriotes like the Nelsons, Leslie and Neilson reflected a corresponding division of the English-speaking constituency at large. Finally, the government parties were utterly disorganized and everywhere, identification with the Chateau was a liability to a candidate.

iv

Dalhousie's position hardened after this election. The most important development was the eclipse of Sewell. In 1822 Dalhousie had referred to the Chief Justice as "my better half."⁴¹ But the Governor and Chief Justice quarrelled over

patronage just before Sewell left for England and when he returned in mid-summer, 1827, he found his old pupil and enemy James Stuart firmly entrenched as the one man whose judgement Dalhousie really trusted. Calmer advice came chiefly from Andrew Cochran, whose loyalty to Dalhousie had never wholly blotted out his innate moderation and, incidentally, his concern for his career after Dalhousie's departure. But Stuart's was the rising influence at the Chateau.

Dalhousie spent the autumn of 1827 retaliating against the worst offenders during the election campaign. Panet removed Fr. Keller from St. Eustache, and Stuart drew up indictments for libel against several editors. The legislature was summoned for 20 November; the patriote chiefs arrived from Montreal in high good humour, in a chartered steamer, revelling in the atmosphere of crisis created by the libel indictments and the rumour that Dalhousie would not accept Papineau as Speaker. The Governor met the two chambers with a frosty speech and then sent the Assembly back to elect a Speaker. So the ancient ritual began. The clerk of the House stood beside the empty chair and pointed silently at Louis Bourdages, who nominated Papineau, and then at Ogden who proposed Vallières. The members divided, 39 for Papineau and five (Ogden, Christie of Gaspé, Young, Andrew Stuart and Boissonault) for Vallières. Papineau was then escorted to the chair by Bourdages and his seconder, the House passed a formal address to Dalhousie giving its choice, and then adjourned.⁴²

On the morning of the 21st, passions erupted. The Assemblymen filed into the Legislative Council to receive a reply to their address, and Sewell communicated Dalhousie's refusal to acknowledge Papineau and the instruction to proceed to another selection. The Assemblymen stormed back to their own chamber; Papineau resumed the chair,

Bourdages seized the mace and declared the House in session. Vallières moved resolutions declaring that the prerogative of approving the Speaker had expired long ago from disuse, and its revival was oppressive. The resolutions carried easily as Vallières led the house on Papineau's behalf and Boissonault deserted the tiny English minority. Dalhousie refused to acknowledge the address of the house, and prorogued it on the 22nd. He was warmly applauded by the Mercury, which declared that the royal prerogative of rejecting the Speaker had fallen into disuse in England only because of the prudent restraint of the House of Common in never proposing a Speaker who had led a party against the Crown.⁴³ The Colonial Office never formally approved of the rejection of Papineau, but merely took steps to ensure that Dalhousie would never meet the Assembly again. This suited a growing feeling among the classes on whose behalf he believed he was governing. George Moffatt told a friend in Upper Canada, "As matters stand it is I think doubtful if the present Governor will ever meet the Assembly again and from the feeling which is gaining ground in the Country towards him the sooner he is recalled the better."⁴⁴

Stuart in particular was repudiated by his own race and class. The colony had little stomach for extreme measures and the indictments for libel against Duvernay and Waller at Montreal, Mondelet at Trois Rivières, and Samuel Neilson at Quebec encountered stiff opposition from the grand juries and judges. In the indictments for "gross perjuries" committed at Sorel, Stuart was embarrassed when his chief witness, the returning officer Griffin, mysteriously took a steam-boat voyage on the day his testimony was to be heard. Judges Pyke and Foucher bailed two editors at £50 and £25, and postponed their cases until March. Like the Colonial Office, the judges seemed determined to postpone the quarrels until Dalhousie was on his way to his new posting in India. When

the cases came up again in March, 1828, a further delay was granted, which the attorney-general railed against as a clear attempt to obstruct justice. Pyke, Foucher, and Uniacke were "weak & changeable wherever [sic] popular feeling is interested". At Trois Rivières, Dalhousie found his new chairman of the Quarter Sessions, Thomas Coffin, was "a poor puny paltry, politician - a man with the word Loyalty ever in his mouth, but trembling when called to do his duty." At Quebec the contempt for Stuart was most marked: Jonathan Sewell and the sheriff, his son, assembled a grand jury, composed half of Canadiens, then named Amable Berthelot its foreman! Anarchy, Dalhousie concurred with Stuart, would be the natural result of these half-hearted proceedings.⁴⁵

But Dalhousie was permitted to escape from the colony with his self-respect intact. He had to wait until summer for exoneration from the Colonial Office, when William Huskisson declared in the House of Commons that Dalhousie had not exceeded his instructions; but in the colony vindication of a sort came sooner. The reluctance of the Bench to persecute political offenders was, after all, coloured largely by hostility to Stuart and not to the Governor. The more the patriotes tried to discredit Dalhousie (and a new wave of insubordination in the militia followed the November session) the less latitude their opponents had in deciding whether or not to support him. Some opposition to Papineau had to be made, and for most British colonists it was unthinkable in 1828 (though not by 1835) to honour the British Crown while attacking its representative in the colony. Colonists could still only express their aspirations and their fears within the context of the British connexion -- appeals to independence or to annexation to the United States were not wholly unheard in the twenties, but they came only from an ebullient element at Montreal during times of extreme economic stress.⁴⁶ In 1828 the pleas and rhetoric

were solidly constitutional, and to Dalhousie, isolated at the Chateau with his indignation and disgust, addresses of loyalty and support began to stream in. His tactics and his public postures were wrong; his hostility towards the Canadiens was too rancorous to be truly popular, and yet his far-reaching objectives were in close harmony with those of the Scottish, English, and even American population of the colony. He had gone too far, but he had been driven: and while the patriotes were assembling an enormous pair of petitions of grievance to be sent to the British Parliament, individual localities throughout the colony presented their respects to Dalhousie. Seven thousand signatures from the city of Montreal proclaimed the constitution, as interpreted by the Governor, "our chief refuge in danger, our strong tower of defence against feudal ascendancy, and our sole reliance against anarchy and confusion." Twenty-seven hundred from Quebec approved of Dalhousie's conduct in proroguing the rebellious legislature, and urged an imperial inquiry into the colony's troubles. From Trois Rivières, eight hundred persons called for the imperial government to support the colony against the Assembly's attempts to "destroy the whole fabric of our social compact". The royal seigneurie of Sorel contributed a hundred names in support, and two hundred and fifty were appended to Roderick McKenzie's petitions from Effingham County and Terrebonne. The seigneuries of de Salaberry and Hatt at Chambly yielded nine hundred and fifty names; Antrobus at Berthier collected eight hundred signatures in an area where the seigneur was a traditional opponent of the administration. By the dozens and the hundreds the scattered farmers of the Eastern Townships joined the chorus. Judge Thompson forwarded two hundred and ninety signatures from New Carlisle, in the far-off district of Gaspé.⁴⁷

Tactically, the campaign miscarried, for local addresses to the Governor could not outshine in London the mass petitions the patriotes were preparing for Parliament. Nevertheless there was comfort for Dalhousie in the form of the patriote petition. It was marked with the crosses of the illiterate, and tarnished by sworn affidavits saying that school-children had signed it (the little girls using initials instead of Christian names), that many of the country people were told they were signing a loyal petition, that infants two years old were making their crosses, that notaries inscribed the names of whole villages without consulting the persons whose marks he then affixed. Perhaps these allegations were untrue; perhaps the 87,000 names appended to the petition against Dalhousie were not as fraudulent as his supporters maintained. The fact remained that against nine thousand real signatures on the patriotes' petitions, fourteen thousand men had actually signed their names to the loyal addresses lauding the Governor for his stand against popular sovereignty and the rule of the patriotes in the Assembly.⁴⁸

The prolonged crisis which ended Dalhousie's Canadian career revealed a great deal about the divisions of English-speaking society and the evolution of conservative politics in the colony. First, talented and influential individuals of British origin were willing to co-operate fully with the patriotes. Second, the bureaucratic faction was almost solidly united against the Attorney-General, James Stuart. Third, the merchants of Quebec were out of temper with Dalhousie, and at Montreal the mercantile and legal communities were riven by disagreement over the issue of democracy in city government. Fourth, of the humbler classes of English-speaking colonists less can be said with certainty, except that the Irish Catholics were easily led towards Papineau, and the support given to Neilson and the

votes withheld from Lee indicated an inclination amongst ordinary English-speaking and mercantile voters to repudiate Dalhousie's government.

Moreover, it is instructive to note the extent to which the government's partisans concentrated on the civil list question. The financial question offered less occasion for eloquence or rhetorical refinement than any other political issue of the day. Yet the bulk of election propaganda seems to have turned on the abstract question of legitimacy and the technical one of the appropriation clauses of the Act 14 Geo iii c. 88. On the assembly's neglect of public improvements Peter McGill's principal speech contained about three lines out of nearly a thousand; much of the rest was a lawyer's prose on the civil list. The obvious inference is that the leaders of the Montreal party believed these were questions on which the English-speaking elector needed to be convinced and cajoled, and not merely exhorted. Men like Moffatt and Leslie were anxious to compromise and collaborate with the Canadiens; one may readily believe that the same sentiment affected individuals at all levels in the English-speaking community at Montreal.

The election of 1827 put an unmistakeable end to one of the historic political alignments of the colony. From the earliest periods of the British régime the country gentry and the clergy had been seen as part of a natural aristocratic buttress to British rule, helping stave off American and French republican influences. Ryland, Mountain and Craig had smashed this alliance between 1808 and 1811; Prévost, with the help of the American armies, had re-assembled the structure but left the task incomplete. Dalhousie saw the unjoined pieces swept away. He had feared the subtle opposition of Plessis and tried to neutralize it; he discovered that a weak bishop was worse than a strong, cunning one. The militia crisis showed the collapse of

relations with the gentry. It was both cause and symptom of Dalhousie's weakness: the militia had become permeated with patriotes. The Governor displaced popular but inefficient men in favour of potential political supporters. This underlined both his lack of effective patronage and his unsympathetic handling of men. The remark of one lieutenant-colonel on the militia difficulties may stand as the epitaph of Dalhousie's whole career in Lower Canada. What he did was not technically wrong, but "Lord Dalhousie allowed obstacles to be strewn in his path, without taking effectual measures to remove them."⁴⁹

PART III

Chapter 5: The 'British Party' Disowned - the Select Committee of 1828

i

The parliamentary investigation into Canadian affairs, conducted in the summer of 1828, marked a vital stage in the fumbling attempts begun by Goderich in 1827 to pacify the Assembly without sacrificing British prestige, constitutional principles, or economic and strategic interests. The report of this committee was adopted by every succeeding British government down to 1836 as a blueprint of Canadian policy, and for this reason its importance has been amply recognized by historians, as it was by contemporaries. Nonetheless a few observations need to be made on the origins of the report and of the select committee itself, on the character and shortcomings of the report in relation to the evidence on which it was based, and on its effect on the British community in Lower Canada. Dr. Helen Taft Manning has remarked on the report as a turning point: after 1828 Governors' hands were tied by decisions made in London to an unprecedented extent.¹ This is true, but is one side of a paradox, for the major decision taken in London was to govern as far as possible in accordance with colonial wishes. This encouraged both sides in the colonial dispute to create political or quasi-political organizations designed to achieve social, economic and political change in the colony, and to impress partisan views on public opinion in Britain.

The parliamentary inquiry was the logical outcome of Dalhousie's desire for public vindication and intervention by the imperial legislature, and of the Assembly's wish to

have its petitions thoroughly investigated. It was also a tempting route of escape for the new Colonial Secretary, William Huskisson. 1828 was a poor time to seek constructive policies on a minor issue. Party lines were blurred at Westminster as ministers came and went; politicians looked to their honour and prestige, not to their departmental duties, and the more liberal whigs, those who seemed for the moment to have talent and prominence without immediate prospect of ministerial responsibility, nipped at the flanks of whoever happened to be in office at the time. The Colonial Office was a favourite target for attacks by whig partisans and economic reformers, partly because of discontent at Cape Town and Quebec, partly because of the expense of colonial government and defence, and partly because of the lucrative and apparently wasteful patronage the colonies offered every ministry. Huskisson himself was one of the more liberal tories, and therefore unlikely to rush enthusiastically to Dalhousie's defence. He had inherited from his predecessor, Goderich, a vague consciousness that something was wrong and the Assembly would have to be mollified; so he decided to refer the whole question to a select committee of the House of Commons. The committee would be safely ballasted with supporters of the government, but would have scope to conduct as wide an inquiry as possible. Bathurst at once objected to this move to throw open a question from which the opposition could easily profit, and Huskisson wavered; but having committed himself to an inquiry, he made his formal motion for it on 2 May.²

Dalhousie's delegate to London, the Montreal magistrate Samuel Gale, was inclined to condemn Huskisson for timidity, but the decision suited the times. Old institutions were insecure, assailed on grounds of principle as well as expediency, and Huskisson was among those questioning old orthodoxies from within the tory ministry. In private, he

vacillated on Canada: he reviewed the Assembly's case with Gale, saying "What defence can be made against charges like these? A British House of Commons will always support the control of the Assembly over the public monies."³ But Gale lectured him on the original purposes of the constitution of 1791 -- to smooth the transition to British supremacy in Lower Canada -- and when the Assembly's delegates arrived a few days later they too complained of a very cold reception at the Colonial Office; they also had cause to complain when Huskisson made his formal motion for the selection of a committee, presenting the matter in a speech heavy with criticism of the failure of past Assemblies to improve the colony and its laws.⁴

Huskisson thought he had taken precautions to make the proceedings fair without unduly embarrassing either the governor or the former Secretaries of State whose conduct was on trial. But the committee's proceedings got out of hand. Samuel Gale, a competent lawyer at his desk but a poor performer in open court, was no match for the patriotes' delegates.⁵ The tories on the committee were an unenthusiastic lot, completely outgunned by three young whigs who professed a first-hand knowledge of the colony and for partisan reasons were committed to harassing the Colonial Office. They were all highly talented, destined to be in the front rank of the next generation -- John Evelyn Denison, E.G. Stanley, and Henry Labouchère. Labouchère in particular made a strong maiden speech in answer to Huskisson's motion for the committee, in which he denounced anything like a repetition of Wilmot Horton's attempted constitutional reform of 1822. The enthusiasm these three brought to the committee's proceedings outweighed the tactics of the tories, who were content mainly to arrange regular consultations between Gale and the tory member Archibald Campbell of Blythwood, a close friend of Dalhousie's.⁶

The committee cast its net wide, taking notice of Upper Canada's controversy over church establishment, and Lower Canada's problems of civil law reform and government finance. But the drift of the testimony was closely directed by the members sympathetic to the Canadian delegates, Neilson, Cuvillier, and Viger. Gale was led into endless, boring disquisitions on matters of minor importance; even so he suffered the embarrassment of having some of his opinions contradicted by a member of his own party, J.C. Grant. John Neilson, on the other hand, answered his questions with the facility of a man who was both a working journalist and a popular and successful politician. Neilson emphasized that maladministration was the cause of the colony's troubles; when the opposite theory, cultural incompatibility, was advanced by James Stephen of the Colonial Office, Neilson was recalled to recite extensive personal recollections of racial harmony amid the mixed settlements of Quebec County. Neilson adeptly refused to be drawn into discussions of political theory in the abstract, and though Viger and Cuvillier were less cautious, their republicanism and praise for the spirit of the old French laws of the colony was not successfully exploited by Blythswood as a point against them. Despite this, the committee broke up towards the end of the session with a non-committal draft report agreed upon. Many tory members, including Blythswood, were therefore out of town when Stanley had the committee reconvened to hear new evidence. This consisted of petitions Neilson had not produced earlier because they referred to events since his departure from Lower Canada; but he had had them for over a month when he came before the shrunken committee in the last week of June. These petitions related to the sedition trials and the militia disturbances, and Stanley used them as a pretext for rewriting the draft report and adding a strong condemnation of the executive's conduct in the wake of the 1827 election.

The report was circumspect in condemning the Governor outright, but it denounced the ancient practice of paying the civil expenses on the fictitious assumption that they would afterwards be covered by a supply bill, and left the impression that Dalhousie was a liability in the government of Canada. The Governor's own summary, pieced together from reports by Blythswood, Gale and his own brother John Ramsay, summed up the feeling of tory observers. Huskisson was new to the situation, and when he quit office in mid-session he was replaced by somebody equally inexperienced, Sir George Murray. Then the "youngsters who ran thro' Canada in 1824 when I happened to return to England had found the course clear of Ministerial interference -- they had the ball at their foot, and... they believed everything to be true that came as accusation against the Constituted authorities." The adoption of the report, carried by Wilmot Horton's opportunistic casting vote, was a sign of the Government's slipping grasp of affairs, of inattention by Dalhousie's friend Blythswood, and of masterful parliamentary tactics by Stanley and his young accomplices.⁷ It does not follow that the report embodied the general sense of informed British opinion on the subject. Bathurst tried to get the report buried in oblivion, but this merely confirmed that he was losing touch with British as well as Canadian politics. The adoption of the report by Sir George Murray, like Huskisson's decision to appoint a Select Committee, seemed the only alternative to the unthinkable rekindling of animosities which had made Dalhousie's government so painful to himself and so perplexing, and time-consuming, to his superiors.

The adoption of the report was made easier by the fact that although it used language the Assembly could applaud, especially on the financial question, it condemned the theories and tactics of the imperial centralists in Lower

Canada without disowning their social and economic goals. The report was full of modest support for the reforms the British colonists wanted, including representation for the townships and registers of land titles and encumbrances; it enthusiastically endorsed the rights of the Assembly, without commenting on the disparity between the British and the colonial electorates; and it dealt out some well-meaning nonsense on minor points. The report stood fully behind Neilson in blaming the troubles on corruption and mal-administration, and especially on the placemen in the Legislative Council: it therefore treated the Canadiens' objection to reunion of the Canadas as a conclusive obstacle to that measure. The report advised as strict as possible an adherence to the constitution of 1791 as interpreted by the Assembly, and permanent appropriations for the salaries of judges and the more important civil officers. The report failed to say anything on the question whose importance was growing throughout the 1820s and would be paramount in the thirties, the problem of accommodating the expansion of the British immigrant community to the conserving instincts of the French Canadians. Indeed, Neilson had taken pains to convince the Committee that the Canadiens considered the colony big enough for British immigrants as well as the Canadiens' natural increase. Neilson's testimony may have been wishful thinking rather than conscious deception, but its adoption by the Select Committee ensured that implementation of the report would be hobbled from the start by the fact that it did not respond to the full range of fears of the Canadiens, or the whole aspirations of the British colonists.

These points are essential to an assessment of the report of 1828; it did not grow out of the settled opinion of British politicians at large, but from partisan subterfuge and government distraction. The theory of colonial adminis-

tration which inspired the report had roots in the previous decades and was part of a long and honourable tradition of trying to govern the colonies with a minimum of intervention in their local affairs; but the report skirted difficulties by steadfastly refusing to consider the possibility that British interests might not be wholly in harmony with those of some classes of the colonists. The report assumed that defence and economic growth were both compatible with the conserving instincts of canadien society. The truths which Dalhousie had tried to reveal in his clash with the Assembly were hastily buried again by the Select Committee. It condemned the imperfect tools through which Britain sought to manage the affairs of Lower Canada; but it did not renounce the benefits which that rule had sought, however ineptly, for the British empire.

ii

The events of 1828 are customarily taken as the beginning of any detailed study of the 1830s. The report of that year was extravagantly praised by the Lower Canadian Assembly, and for the next nine years every Colonial Secretary tried to follow the report, as the best alternative to reviving the sterile tactics of Dalhousie in 1827, or the daring ones of Wilmot Horton in 1822. The acclaim for the report was not quite unanimous. Dalhousie was badly shaken by the implied criticism of his government, did not consider that he had been given sufficient credit for carrying out orders, and felt betrayed by the acceptance of ex parte evidence from Neilson in the last sitting. In the colony, the British community continued divided. Dalhousie's wholehearted supporters expressed their confidence in his judgement, but outside this little circle there was a widespread inclination to trim sails to suit the new breeze.⁸ Dalhousie's

successor warned the editors of the official Gazette and of the Mercury that their official commissions neither required nor permitted them to speak for the executive in their newspapers.⁹ David Chisholme at Montreal drafted a series of violent articles against the effects of the new policy of avoiding conflict with the Assembly, but he could not find a printer for them in Lower Canada. Robert Christie's history of the second half of Dalhousie's administration died at the proof stage. John Richardson brought down to Quebec a strong refutation of the Select Committee's strictures on the Legislative Council; his colleagues received it so timorously that he flung it across the chamber, narrowly missing the head of one of his erstwhile supporters.¹⁰ The Council eventually adopted a tone of injured dignity instead of Richardson's bold remonstrance. It also accepted a representation bill which erased English country names from the map and created a handful of "English" seats in the townships, and three times as many new "French" ones in the seigneuries. This period has been described by H.T. Manning as an "era of good feeling", and it certainly marked one of those phases when the Assembly, trusting in a new Governor, unlocked the treasury to build roads and schools, chiefly for the benefit of its own constituents but partly for the townships as well.¹¹ There was some grumbling in the British community against annual supply bills based on that of 1825, and the omission from those bills of the salaries of some conspicuous men of the old régime, the chairmen of the Quarter Sessions. Coffin at Three Rivers and Crawford at New Carlisle were casual victims of what was really a personal vendetta against Gale and Robert Christie. The latter not only lost his salary, but was expelled from his newly-won seat as member for Gaspé.¹² Judge Kerr and Judge Fletcher, unpopular but not demonstrably corrupt, were hounded from session to session by committees investigating petitions against them. But on the whole these

were not bad years for the business interests of the colony, however poorly their constitutional scruples were regarded by the Colonial Office. The Assembly urged Kempt to begin work on the Chambly Canal, conditionally authorized in 1823, and Leslie steered through the Assembly the renewal of the bank charters for seven more years, and bills to aid the development of Montreal harbour, already stimulated by the Admiralty's renewed interest in the St. Lawrence waterway. The cities got their charters, with corporations elected by land-owners. But there was no reconciliation of races: the French went from success to success, viewing the tolerance of Downing Street and the Chateau not merely as redress of maladministration, but as encouragement to their hopes of separate nationality. Acts to regulate the magistracy and the militia command resulted in a large-scale withdrawal from those bodies of British colonists, some because the landed property qualifications excluded them, others because they objected to the anti-British spirit evident in the new Acts.¹³ So the "era of good feeling" was highly artificial, a sullen and confused retreat by one party, a jubilant consolidation of power by the other, the whole confused and veneered by tactical magnanimity on the part of Papineau, who wished to retain the good opinion of the British Parliament as long as possible, without conceding anything essential in his quest for power for himself and the Canadiens. In short, the calm which followed the report of 1828 and the departure of Dalhousie was that period of optimism which usually greeted the arrival of a new governor, and was prolonged by the departure of the Administrator Sir James Kempt before his non-committal stance had been eroded by the patriotes. Peace was also the period of grace John Simpson had looked for in 1825, when the executive would make real concessions in one year in anticipation of "perfect sanity" in the Assembly in ensuing years.¹⁴ There was no real reconciliation --

each party gave the other time to show its real intentions.

The British colonists, however, were still not behaving as a cohesive political body. The settlers in the townships, pleased at receiving representation at last, sided with Neilson in believing that maladministration was the real cause of the patriotes' intransigence; the behaviour of Dalhousie's nominee as judge at St. Francis, John Fletcher, had helped to make a convinced oppositionist of at least one MPP, Ebenezer Peck of Stanstead; he and more than half of his townships colleagues voted consistently with the majority in the Assembly.¹⁵ For the old supporters of the executive, especially in the Legislative Council, the habit of obedience to the wishes of Downing Street posed a problem in politics, and even in ethics. Sewell was widely condemned for his sudden capitulation to the Ryland-Hale party, but Kerr and Bowen remained true to their old principles until orders from the Colonial Office made them stop attending the Council altogether. In the other House T.A. Young, broke with Ogden and Andrew Stuart in opposing the bank charters, though he voted fairly consistently with the minority in others matters. So the 1830s dawned with nothing that could be called a British party to be seen on the political horizon -- only a handful of individuals without a coherent purpose amongst themselves, or a clear set of roots in the British communities of Lower Canada.

iii

The 1830s are among the best-chronicled decades of Canadian history and Anglo-Canadian relations in the nineteenth century. The initiatives of the Colonial Office, the growing intransigence of the Montreal "clique" which dominated the Assembly, the diminution of the Governor's authority and the more moderate behaviour of a virtually new

Legislative Council, have been amply covered in works by Manning, Ouellet, Burroughs, Buckner and others. The economic history of the decade is available in the works of Creighton and Ouellet.¹⁶ Some aspects of these issues still invite detailed study, but little can be added to them here: the following passages are intended merely as a commentary, and a summary of what is available elsewhere. But besides these well-known themes stands another, relatively untouched, which will provide the substance for succeeding chapters. The Select Committee of 1828, and the well-meant exertions of the governments which tried to carry out its report during the early thirties, eventually achieved what Richardson, Dalhousie, and the parti canadien had failed to do in the 1820s: they stimulated the different classes of British colonists in Lower Canada to support each other in trying to take control of the province's destiny away from the lawyers, notaries, and convinced republicans who controlled the unsophisticated electorate. The story of Lower Canadian politics in the 1830s is partly bound up in the arid discussion of constitutional theories between the British Government and the patriote Assembly, but it is also to a great extent the story of the way the English-speaking colonists organized themselves into bodies outside the constitution, to overcome the report of 1828 and its naive reliance on the good intentions of the patriotes.

Clearly the British colonists who were at odds with the Assembly could no longer call themselves the Governor's party. The position of the Governor of Lower Canada, unenviable in the 1820s, became nearly impossible after 1828. Dalhousie was succeeded by Sir James Kempt, a man six years his senior but of a different cast, friendly with Edward Ellice and well disposed to the whigs, considered somewhat foppish, but ambitious and able. Kempt recognized the chief command of Canada as a valuable step in his military career, but made

no secret of his intention to escape to Britain as soon as he decently could.¹⁷ He concealed his distaste at the vacillation of Downing Street and accepted, because he could see no acceptable alternative, supply bills which the Duke of Wellington was at first inclined to disallow. Like Dalhousie, he looked around for suitable Canadiens to promote in the public service, but he dug rather deeper into the barrel of radicalism than his predecessor would have done, putting Denis Viger into the Legislative Council, and transporting Remi Vallières from the Assembly to Trois Rivières as resident judge. Kempt appointed no new Executive Councillors, and of his appointments to provincial offices in the civil list, he gave 53% of commissions, bearing 80% of fees and salaries, to French Canadians. The Assembly seemed well pleased with all this: only Austin Cuvillier was perceptive enough to see -- or honest enough to declare -- that Kempt differed from Dalhousie mainly in being more "riant".¹⁸ Kempt never opened his commission as Governor, acting as Administrator for two years and happily returning to England in the autumn of 1830. Of the six administrators of the 1830s he shared with only Sir John Colborne the distinction of leaving the administration more tranquil than he had found it.

Kempt had survived trouble on the civil list by accepting annual bills which embodied the Assembly's veiled claim to dismiss officials by neglecting to pay them. He deferred more permanent provisions by referring to Sir George Murray's promise to surrender by an Imperial Act the bulk of the disputed revenues, fixing a modest civil list at the same time. This matter remained unsettled when Kempt left Canada, and the British tory ministry gave way to the whigs. The new ministry and new reign in Britain affected the Lower Canadian civil list, for the British civil list of 1830 was the first to prune away all administrative salaries, leaving the King with

permanent provision for no more than his household and personal staff.¹⁹ The whigs redesigned the proposed Canadian civil list on nearly the same principle, pruning it down to the point where it was meaningless as a buttress to the independence of the administration, and then extending the concession even further by repealing the appropriation clause of the Revenue Act of 1774, leaving it to the Canadian legislatures to enact the proposed very modest civil lists.²⁰ This gave the Assembly the same power to strangle public business which was in theory held by the British House of Commons through the annual voting of the Mutiny Bill, and annual control of Supply for the administrative salaries. Yet the Assembly refused to make even this symbolic gesture as Papineau ominously denounced permanent civil lists as monarchical. The Legislative Council at last threw off the compromising tactics of Sewell and rejected the mutilated, one-year Supply Bill which the Assembly sent up in 1832. On this point the political battles of the next four years were fought out between an increasingly-powerful Papineau, a succession of Colonial Secretaries, and the second Governor of the 1830s, Matthew, Lord Aylmer.

Aylmer was a very different man from Dalhousie or Kempt, but must have drawn largely on the experiences of both. Dalhousie had fought the assembly, but had obeyed his orders from London, and was ultimately made Commander in Chief in India. Kempt kept on good terms with the Assembly, at the cost of offending the Ministry in London, and was made a privy councillor when he arrived home. It seemed that Aylmer need only follow the advice of the Assembly when he could, be sure of his legal precedents when he could not, and it would not much matter whether he carried any measures or not; his reputation, even advancement, ought to be secure. He would neither bully nor cajole. He was not a lazy man, and like Dalhousie he had a zest for travel and an interest in

improvements; but he was not a meddler. His manner was sometimes patronizing, but his real errors were comparatively few, chiefly blunders in judicial patronage under the influence of Jonathan Sewell and James Reid.²¹ His only policy was to follow orders from London and to try to bring forward the moderate men of all shades of opinion, and otherwise to give politicians as much leeway as they wished to take. When the Assembly addressed him to suspend the Attorney-General pending hearing of charges dating back to the election of 1827, Aylmer reminded the outraged Stuart that the case for carrying out the suspension was conclusively argued in Stuart's own proceedings against Monk and Sewell in 1814!²² Yet when the Assembly expelled a member for accepting an unpaid office Aylmer was equally scrupulous in refusing to issue a new writ for his seat.²³ The Governor's celebrated "unripe grievances" message to the Assembly in 1831, asking whether their resolutions of that session had really embodied all the concessions they wanted, was widely ridiculed by the British in the colony; but the incident became a standing reproach against the patriotes when they did subsequently broaden the scope of their complaints. The decay of the Legislative Council had been one of Dalhousie's great failures: Aylmer acted on the belief, common to his class and his era, that a state could not prosper if the men who held economic power were denied access to political influence; and he re-modelled the Legislative Council accordingly. Unlike Dalhousie, however, he paid little attention to his Executive Council, declaring on one occasion that he was reluctant to consult his councillors at all, as he did not intend to bow to their judgement if they disagreed with him, and did not need to mitigate his responsibility if they supported him.²⁴ Aylmer carried out the Select Committee's recommendation that judges should stop attending the two councils, and did no more to the Executive Council than to

add, from 1831 to 1833, three French Canadians as honorary members. In executive patronage he shared Dalhouse's scruples against appointing men who had actively opposed his own administration, and therefore, like Dalhousie, he had difficulty in this respect as his administration wore on.²⁵

But Aylmer's relations with the majority in the Assembly were poisoned by much more than the age-old issues of racial bias in patronage, and maladministration. In May, 1832, three civilians were killed by troops during an election riot, and Papineau turned the resulting inquest into a contretemps between himself and the Governor, neither of them having any right to become involved in the normal course of proceedings. It was also Aylmer's misfortune to be in charge of the colony during the half decade when a rush of British emigration to the Canadas tipped the balance of population, in the two colonies, in favour of the British settlers: if the boundary of 1791 was abolished there would be no need to tamper with the basis of representation to ensure that half the representatives were, if not "conservatives", at least British. The Canadiens were by no means subdued by this influx but were not yet confident of their cultural survival; so they did all in their power to inhibit immigration, to diminish its impact on the laws and institutions of the colony, and to revitalize the existing institutions of French Canada. Aylmer's years in office were also the height of Papineau's power: with Vallières on the bench, Bourdages dying, Cuvillier and Neilson departed in disgust, the Speaker was truly the first of his race and of his party, and in his dealings with Aylmer he sometimes displayed the style of a tribal chief dealing with a foreign power, rather than the Speaker of a subordinate legislature in the British Empire. Aylmer let him go ahead, and in his official communications to the British government steered a course between letting Papineau's excesses speak for themselves, and telling the

Colonial Office how it might at least regain the stalemate of the 1820s, when the government had the power to pay its civil servants. By 1834, with the official salaries two years in arrears and the Assembly's celebrated Ninety-two resolutions declaring a determination to pay nothing until the British government yielded to democracy, republicanism, and French ascendancy, Aylmer proposed to the British government an exercise in self-exculpation, the appointment of a commission of enquiry to visit the colony and assess the degeneration of affairs since the Select Committee reported in 1828.²⁶

That recommendation eventually marked the end of Aylmer's career as a colonial Governor. Three Colonial Secretaries in rapid succession considered his recommendation of a special commission. All liked the idea because, like Huskisson in 1828, they preferred to spread as widely as possible the responsibility for finding a way out of the morass, especially if it seemed to require coercing the Assembly. But in each of these schemes there was no place for Lord Aylmer. Whether cause or scapegoat of the Canadiens' discontent, he could hardly stand by idly on the sidelines while a newcomer took account of his administration, nor could he decently go away on leave, with his ultimate return dependent on the verdict of the commission.

Thomas Spring Rice, the first Colonial Secretary to adopt Aylmer's idea of sending a commissioner to Lower Canada, envisaged the mission as one to review on the spot the conclusions of a second Select Committee on Canada, which in July 1834 had reported that the recommendations of its predecessor had been faithfully carried out as far as lay in the power of the British government and colonial executive. Rice's commissioner would enquire into two points -- a court of impeachments for judges and other high officials, and the terms of a civil list that would be acceptable to the Assembly -- and he was to do nothing conclusive about the Legislative

Council. In general the commissioner would try to smooth the ruffled feathers of the patriotes, who were deeply offended by some of Lord Stanley's despatches, without abandoning the hope of a small permanent civil list or making the Legislative Council or Executive Council an echo of the Assembly.²⁷ Then Spring Rice went out of office with the dismissal of Melbourne's ministry in November, 1834; the Peel ministry and its Colonial Secretary, Lord Aberdeen, also preferred to try the commission scheme rather than issue further instructions through Lord Aylmer. The government had already publicly named its commissioner, Lord Amherst, when the whigs returned to office in mid-April, 1835.

Manning has remarked that the Peel ministry was determined in 1835⁴ to have a final confrontation with the Assembly and let the "Canadians... rebel and be done with it" if the last concessions of the British government were not acceptable.²⁸ The tories were indeed unwilling to leave many questions open to fresh inquiry, unless Amherst found that earlier governments had acted on misinformation; but rebellion was not seriously anticipated despite some rumblings in the Ninety-two Resolutions and the inflammatory speeches of Hume and Roebuck. It was one of the axioms of British thought, in London as in the colony, that "Jean Baptiste would as readily swallow a musket as take it up in Civil War."²⁹ By 1834 the colony had not tasted the worst of the deprivations which by 1838 would shake communities loose from the habit of obedience to their priests and seigneurs; the British in the colony and at home correctly appreciated that the Canadiens by themselves could never assemble the supplies or leadership needed for a successful uprising; and almost to the very last the authorities miscalculated the possibility of an uprising without the essential resources for success. The tory government of 1834-35 did not contemplate a rebellion; it intended to show Papineau he could gain nothing by intransigence -- the civil list must be conceded, the Legislative Council must

survive as an independent buffer between the demands of the people and the settled interests of the Empire. There was no clear expression of what the tory government would do if the Assembly refused these terms. It seems likely they intended nothing more than the course contemplated by E.G. Stanley in 1834, to revive the repealed clauses of the Revenue Act of 1774. This would rescue the executive, without doing anything for the merchants. But one paper in Lord Aberdeen's records did propose courses Stanley had considered objectionable or premature, namely reuniting the Canadas or carving up Lower Canada to create a British majority throughout Canada except in the seigneuries and the district of Quebec.³⁰ (In the fluctuating state of Upper Canadian politics, this course might have been as unpleasant to the executive as it was congenial to the merchants.) The tories were spared from having to untangle the possible failure of their commissioner by the series of defeats in the House of Commons which brought the whigs back to power in the spring of 1835.

In the next two months the whigs severely modified Aberdeen's plan, drifting back to Spring Rice's and then beyond. Early redrafts of Amherst's instructions kept most of the features of the tory plan, but the government soon decided to have an inquiry into the future as well as the past; to broaden the scope to cover disputes and grievances which had ripened since 1828, not merely the ones dealt with then; and to regain the momentum of Aylmer's early success in splitting the patriotes by patronage and flattery, as well as strict fairness. All this would take time, and was beyond the powers of a single commissioner. Amherst resigned, as the whigs hoped he would; he was replaced by three men drawn out of obscurity, Sir Charles Grey, Sir George Gipps, and the Earl of Gosford. The least inconspicuous of these was Gosford, one of the representative peers for Ireland; he was made Governor in Chief as well as head of the commission. His role,

for which his genial character suited him, was to avoid the sources of recent conflict between Aylmer and Papineau, regardless of the rights involved, and to dissolve, rather than smash, the Assembly's determination never to pass another Supply Bill until the demands of the Ninety-two Resolutions had been met. To secure such forbearance, Gosford was to govern (as Kempt and Aylmer had been told to do) in accord with the report of 1828, and to use patronage fairly and with an eye to influencing the leading Assemblymen. Gosford had the added advantage of secret instructions as commissioner, empowering him, with his colleagues, to report on and recommend anything they thought could reconcile conflicting interests in the colony. This, the government hoped, would put the Assembly on its best behaviour. The instructions to the Commission privately expressed the government's repugnance to election of the Legislative Council, but the idea was not totally forbidden. Lord Howick, the erstwhile colonial undersecretary who thought Aylmer personally responsible for squandering past opportunities for reconciliation, insisted that the commissioner, if he was to be anything more than an instrument of delay, ought to have power to negotiate an agreement with the different parties. The whigs could see several obstacles to Howick's aggressive plan: it was indecorous for the King to negotiate with his subjects; a negotiation carried out in that fashion might recommend something the government felt compelled to reject; and negotiations might simply break down, bringing the crisis to a head at an inconvenient time. So despite Howick's repeated interventions in June and December 1835, and May 1836, the Commission remained what Glenelg intended it to be, a body designed to investigate and report, with full discretion reserved to the home government to take whatever it chose of the Commissioner's advice.³¹ One embarrassing result of this proceeding was that Gosford could hardly move without consulting the British government, for fear that some

administrative decision as Governor might prejudice his report as commissioner. On some very important issues, such as filling up the Executive and Legislative Councils, the delays at the Colonial Office strangled whatever good effects might have flowed from the Governor's well-intentioned plans.

So far as the British colonists were concerned, Gosford's reputation never recovered from the effects of his first weeks in office. At his first public function he outraged high society by giving social precedence to the mayor's wife. Mme. Caron may have been the ranking Canadienne present but she left in her wake a bevy of furious British women who outranked her by birth or marriage.³² Such a gesture caused ripples of indignation in a very narrow if important circle, but all levels of society reacted angrily when public revenues to the amount of £22,000 were made over to the Assembly for its contingent expenses at the start of the session of 1835. In this measure Gosford was merely carrying out orders from Downing Street, imposed on him because the whigs knew there could be no session at all if Gosford refused to advance the contingencies on the mere address of one house. But neither Gosford's flattering manners nor Glenelg's hazardous concessions broke Papineau's hold on the patriotes. The executive departments fell into disarray; until the eve of the rebellion Gosford's Executive Council was the rump of Dalhousie's, without even the merit of containing any of the high officials whom Dalhousie thought should pool their talents and co-ordinate their efforts in that body. The civil servants were unpaid between 1831 and 1834, and not paid again in full until the late summer of 1837; they were demoralized, going through the motions of their official duties.³³ Gosford used official patronage much as Kempt had done, giving a majority of posts, and a greater majority of salaries, to French Canadians, and outraging the British colonists by going half-way down the list of the Quebec Bar

to put a well-known patriote onto the Bench. There were no concessions from Papineau. The charters of the city corporations were allowed to expire. Appropriations for public works, buildings and waterways amounted to exactly £1,000 during Gosford's administration, of which half went unspent. Neither the concessions from the executive nor the paltry revenge against the merchants satisfied the patriotes -- they continued to agitate for complete control of the whole machinery of legislation and administration. At length, in the celebrated Ten Resolutions of March, 1837, the British Parliament stepped in to check the Assembly; the patriotes' outrage spread across the colony, feeding on the agricultural distress as well as the fears and simple ignorance of large sections of the population. By mid-July Andrew Cochran was back at the Chateau, patiently explaining to Gosford, from his recollections of 1827, how to go about disposing of troublesome militia officers and magistrates, and supplying from his files, for Gosford's use, a copy of Dalhousie's message closing the refractory session of 1827.³⁴ To radicals in Britain and patriotes in the colony, these were just further steps in the repudiation of the enlightened spirit of 1828; to the British colonists they were hesitant steps, long overdue, that might bring the colony back to sanity. And they felt themselves better prepared for a new dispensation by the changes which ten years of conflict had wrought in the different elements - conservative, reforming, and inert -- which had made up the political complexion of the British community of Lower Canada.

iv

Between 1828 and 1838 there was no British party in the colony identified with the executive, apart from a few years when Aylmer's course happened to agree with what the British

colonists wished him to do; even so, his withdrawal from the colony was lamented more on political than personal grounds, and by 1837 Dalhousie was still honoured in the colony when Aylmer's name was hardly mentioned. To a limited extent the Legislative Council replaced the executive as a focus for the British colonists' allegiance to Britain. This was partly because the Council was odious to the patriotes, partly because Aylmer had given it a British but non-official majority, and partly because its most energetic new member, George Moffatt, united the old and the new in politics and commerce at Montreal: he was much more than the political heir of Richardson, he became the British colonists' equivalent to Papineau, spokesman for the aspirations and fears of men who looked for quick, uncomplicated solutions to deep-rooted, many-sided antagonisms. But the Council was essentially a body of the dignified and prominent, and was calmer than its predecessor of the twenties. Moffatt seldom carried the battle to the patriotes' camp as Richardson so loved to do, though he certainly flourished in defence. For defence the Council was valuable, but when the British colonists wished to take the initiative, they created political, social, and commercial societies and corporations which ultimately united their community, with some well-disposed Canadiens, in a public defence of their rights and the advancement of their own view of a prosperous future, unshackled from the intricacies of the colonial legal system and the patriotes' suspicion of capitalism and economic development.

These colonial associations comprised purely commercial ventures, including a new bank and a railroad; but private gain was only part of their scope. The story of the 1830s, usually written in terms of the struggle between the executive and the Assembly, can be approached with equal interest from the third side, the side of those whom neither the executive nor the Assembly would officially encourage,

the ordinary British colonists and the leaders of their business interests. Four separate groups, closely linked at the top in personnel, launched the British colonists' attempt to mould the colony's future. The North American Colonial Association in London was a commercial lobby which developed a strong line of political argument. The British American Land Company, a joint stock concern organized in Montreal and London to solve the appalling disorder hindering settlement of the eastern townships, was the second group. Third, the constitutional associations throughout the province created in 1834-37 the nearest thing that ever existed to a broadly-based British political party in the colony. Various social organizations and political protest groups beyond the fringes of constitutionalism also flourished in these years. The fourth great political engine of the British in Lower Canada was conceived in the Montreal Constitutional Association, legitimized by an Act of the imperial parliament in 1838, and born through the efforts of the Montreal constitutionalists almost as soon as Lord Gosford was out of the colony. This was the Special Council of Lower Canada, which met the British colonists' long-standing dream for a legislature which could advance colonial economic development, without assaulting the guaranteed religious and cultural privileges of the Canadiens. The efforts of the NACA in London and the constitutionalists in Lower Canada were really instrumental in making this non-elected legislature possible, even if they earned a share of the blame for making it necessary. A narrative of the efforts of the Colonial Association, the land company, the constitutionalists, and the Special Council, will round out the already-familiar story of the achievements and failures of the Colonial Office, colonial executive, and patriote reformers of Lower Canada during the extended crisis which followed the parliamentary investigations of 1828.

Chapter 6: The North American Colonial Association

i

The North American Colonial Association, embodiment of the hopes and fears of the London merchants trading to Canada, was formed in 1831, a direct result of Lord Althorp's controversial budget in that year; but some of its roots lay in the report of the Select Committee report on the Canadas in 1828. That report convinced many interested parties that Britain was fundamentally and dangerously ignorant of Canada, and that the merchants engaged in trade with the colonies had a vital defensive role to play in dispelling that ignorance. Before 1828 these merchants kept an eye on the colonies' political and commercial state, and would occasionally dash off a letter to accompany a petition from North America or a remonstrance of their own, almost invariably on commercial questions.¹ But these gestures were sporadic and directed to specific topics. This changed in 1829, when the timber merchant Nathaniel Gould began to publish narratives of his trips to North America, and to send unsolicited advice to the Colonial Office, usually enclosing rather alarming letters from unnamed sources in Lower Canada. About the same time letters on Newfoundland began to arrive at the Colonial Office from George Robinson, the M.P. for Worcester.² But a formal junction between the two men's efforts had to await a political crisis for the commercial community: the establishment of the whig government, with a prominent free-trader as Vice-President of the Board of Trade, and a Chancellor of the Exchequer who held the City's opinion in contempt. In self-defence, the General Shipowners' Society called for establish-

ment of smaller associations wherever there was still reverence for the attitudes encompassed in the slogan "Ships, Colonies and Commerce"; the NACA was duly formed.³

The Colonial Association served a unique function for a limited period. It survived at least until 1849, but it was busiest during the second half of the thirties, and passed from the height of its influence at the end of 1837 to its nadir in the autumn of 1839. The Association's vitality in the thirties was due to a number of factors. The divorce between economic and political power in Lower Canada prevented the appointment of a Lower Canadian agent in London and forced the merchants to create private channels of communication to the Colonial Office. At the height of the Association's activity there was a two-pronged attack on the protected colonial trades by progressive free-traders in Britain and reactionary anti-capitalists in the colony; these movements had to be opposed both in Parliament and out of doors. The end of the Bathurst régime at the Colonial Office and the impotence of the chateau clique after 1828 deprived the merchants of even the small comforts they had enjoyed within the old network of personal and political contacts. All these circumstances encouraged, indeed forced, the establishment of a Canadian lobby at Westminster. The existence of this lobby has always been recognized, yet has never been scrutinized, either as a manifestation of links between business and politics in England, or as a cog in the machinery through which colonial policy evolved.⁴ Historians, like contemporaries, have been apt to dismiss the NACA as "the Gould gang" -- an unholy alliance of Gould, Dowie and Co., with Gillespie, Moffatt, Finlay and Co., an alliance formed to peddle political opinions for much the same reasons as the firms sold grain and timber -- for private gain.⁵ This derogatory portrait of the NACA has the merit of being largely true; but this is not reason enough for

disregarding the Association.

ii

The lack of a proper colonial agency in London was the fault of the deadlock between the Assembly and Council in Lower Canada. Normally, before 1826, the business interests of Lower Canada approached the government and parliament privately or by petition; Adam Lymburner had been allowed to address the House of Commons from the Bar in 1791 against the division of the Canadas, and no doubt politics occupied some of the discussion at the handful of colonial coffee-houses and at the meetings of the Canada Club which was formed in 1810. The Assembly by contrast had two paid agents in London during the session of 1823, and three in 1828. From 1828 to 1831 the Assembly enjoyed the unpaid support of a number of young whigs, but Henry Labouchère and James Stephen failed in their concerted effort to have the Assembly and Council at Quebec unite in appointing to a formal agency the young liberal MP Hyde Villiers. From 1831 to 1834 the Assembly was represented by the pedantic lawyer and Legislative Councillor Denis-Benjamin Viger;⁶ he was joined in 1834 by Augustin-Norbert Morin, a nervous young barrister whose pronouncements convinced many British observers that the Assembly's pretensions would have to be curbed before an effective settlement could be reached. When Viger and Morin went home in 1834, they left behind as the Assembly's spokesman the Canadian-raised John Arthur Roebuck, now radical MP for Bath. Roebuck was hobbled by the violence of his own style, speaking, as John Cam Hobhouse remarked, "not to our heads nor our hearts but to our throats";⁷ and by the growing disquiet in London at the sombre news from Quebec. But Roebuck possessed real strength in his position among the philosophic radicals, whose votes in

parliament were part of the whigs' frail majority after 1835.

Thus the support for the Assembly in Britain came mainly from politicians on the radical fringe, influenced by Joseph Hume's long antipathy to the Colonial Office in the twenties and by the scepticism towards formal imperialism shown by the political economists. The opposite view was, predictably, centred in the tory party and also in the representatives of colonial trade. The latter put up creditable performances before the parliamentary select committees on the timber trade in 1820 and 1821,⁸ but they were only intermittently represented thereafter by James Stuart, W.B. Felton and Samuel Gale. In 1831 the Committees of Trade of Montreal and Quebec named ^acommercial agent, the young barrister Henry Bliss, a native of New Brunswick who was already agent for that colony and Nova Scotia. This still left the British colonists without effective representation or direct access to the Press in London. It was this gap Nathaniel Gould set out to close in 1829, with articles in the Morning Post and Blackwood's, and a letter to the Colonial Office enclosing private correspondence from Quebec, one passage of which spelled out the task to which Gould applied himself in the coming decade: "Unless some men like yourself can stir up the public mind as to the folly of exposing their flank by making this Country French or American.... the English here will be bound hand & foot & cast into the sea."⁹

Nonetheless it was commercial considerations which precipitated the formation of the mercantile lobby in April, 1831. Lord Althorp's budget early that year sent a general alarm through the protected trades. Indian cotton, Cape Colony wines, and British North American timber and shipping were threatened; the interested parties milled around Westminster, descending on Althorp and briefing Ellenborough, Murray, Goulburn and Herries to lead the counter-offensive in Parliament. Ellenborough's notes on

these meetings indicate how emigration, a secondary issue in the investigations a decade earlier, had come to dominate discussion of North American trade:

At 2 a deputation of Canada shipowners & timber merchants came to me. The most important fact I got from them was that the whole agricultural population of Canada is employed for the five winter months in the felling, hewing & carrying of timber, and that there are saw mills on every stream.... Last year there were 40,000 emigrants from G.B..... All these were absorbed, & there was no distress.¹⁰

Althorp laughed; when he was told the budget was opposed by the moneyed interests he replied "That is its best recommendation."¹¹ The budget was premature and the timber preferences survived; yet the colonial interests remained organized. The General Shipowners' and Colonial Committee advised its members to form separate associations. On 16 April, eighteen of the most prominent Canada merchants in London met to form the North American Colonial Association. In the chair was George Moffatt's London partner, Alexander Gillespie jr.; the leading resolution was proposed by Nathaniel Gould, and an Association was formed, with seats on its managing committee ex officio for Bliss and other agents of colonial legislatures. The constitution of the Association resembled that of the East India Company, providing for election of the Committee by ballot, apportioned according to the amount of a member's subscription, and directing that members should retire in rotation and be ineligible for re-election for a year. But the quorum was set as low as three, and in practice the Association functioned as a committee of five: Gould, whose firm of Gould, Dowie and Co. exported textiles, imported timber, and owned ships; the two Gillespies, who dealt in Canadian corn and British manufactures, and through Moffatt were deeply interested in the forwarding

trade to Upper Canada; and Robert Carter, secretary of the NACA, who was a founder in 1836 of the Bank of British North America and as a partner in Carter and Bonus, dealt in ships and timber. These four, with Henry Bliss, all shared the work of addressing the Colonial Office, playing host to visiting Canadian dignitaries, and publishing a steady stream of pamphlets on politics, emigration, and the beneficial consequences of the corn and timber preferences.¹²

The North American Colonial Association was conceived as a commercial lobby, to stem the tide of free trade. But it also became a political engine, operated against the influence of the French Canadians and fueled in part by letters from a member of one of the Councils, presumably George Moffatt himself.¹³ As a commercial lobby, the NACA acted to impress upon members of Parliament and the Press the importance of the North American colonies and the improbability of their being able to prosper without the corn and timber preferences. The colonies were not only a strategic counterpoise to the United States; they imported nearly four times as much from Britain, per capita, as the United States, and their potential as a base for smuggling to the northern states, though ostensibly dormant, was a guarantee against even higher American tariffs. The colonies were thus of great benefit even to those self-confident manufacturers who were clamouring for Free Trade. These arguments did not do much to discourage the diligent radical statisticians of the Board of Trade, but they helped to show that the shipping interest was still one of the powers of the land -- powerful enough to draw the teeth of Poulett Thomson's attack on the timber duties in 1835.¹⁴

As a political organ the Association aimed its efforts at a more diffuse audience, for it hoped to draw into the anti-patriote camp liberal businessmen who were indifferent or hostile to the protected trades. The only natural allies of the French Canadians were the O'Connellite tail in

Parliament: Roman Catholic, flattered and courted by Papineau, and devoted like Papineau to breaking up the existing structure of the British Empire, the Irish repealers had only one reason to tread softly on Canadian questions. They were reluctant to throw out the Melbourne ministry after 1835, and although there was never any doubt which way O'Connell's feelings lay on the Canadian question, his partisans' votes on Canada were inconsistent and were never cast against the government except when its majorities were secure through tory support. The next most probable allies of the Canadiens were the philosophic radicals. Roebuck found no difficulty in persuading fellow radicals that all that mattered in the colonial struggle was that the British government was resisting the declared wishes of a democratically-elected Assembly. Racial tensions were simply evidence of misgovernment by an Anglican faction: the cure was to be found in giving the French Canadians more power, not less.¹⁵

The NACA countered this view with the familiar argument that the French Canadians would always return an anti-British faction to power because they were ignorant and misled. The NACA admitted that the colony had been in "a disturbed state...under a former Governor" but the Association never wavered in its view that neither the excesses of Dalhousie nor the survival of abuses justified surrender to Papineau. In this respect the NACA was probably in harmony with the opinions of commercial men generally, for it is noteworthy that the members of Melbourne's ministry who most nearly represented the commercial point of view, Hobhouse and Thomson, were also consistently most unsympathetic to the Canadiens. The NACA never managed to infiltrate the liberal reviews, the Edinburgh and the London and Westminster; but its attitude was supported, and perhaps its assistance was sought, by the foreign and colonial writer for Blackwood's, Alfred Mallalieu, and by the Hon. Thomas Courtenay in the

bipartisan Foreign Quarterly Review.¹⁶ Gould found an outlet for his own articles in the Brighton Gazette. The Morning Herald, second only to the Times in circulation, was an early supporter of the NACA and in important leading articles in 1834 the Times fell into line with the Association's anti-French views. By the end of 1836 the whig ministry itself was secretly deciding to legislate an end to the assembly's obstruction of public business.¹⁷ This gradual hardening of opinion against the patriotes grew as much out of Papineau's excesses as from the positive declarations of his opponents; but in Britain the NACA formed a useful source of information for the bipartisan counter-offensive against the Lower Canadian Assembly.

iii

The bipartisan nature of this campaign needs to be emphasized. In general English and Irish radicals have been portrayed as the friends of the patriotes, the tories as friends of the colonial élites, and the whigs as reluctant intermediaries basically well-disposed to the Assembly but eventually appalled and driven to reaction by its aggressive nationalism. In the period from 1828 to 1837 this is tolerably correct as far as it extends to the front benches in Parliament; but the NACA did not reflect this simple classification. Granted Gould and Robert Gillespie were both numbered among the "City Tories", but until 1837 the NACA was represented in parliament by whigs, not tories. The two men concerned, George Robinson and Patrick Maxwell Stewart, were not warm admirers of Grey or Melbourne, but both were returned as "reformers" by their respective boroughs, both helped to bring down the Peel government in 1835, and neither was replaced by a whig when they lost their seats in 1837.¹⁸

George Robinson was born in 1781, the son of a West

Country surgeon. He entered commerce and lived for some years in Newfoundland, made a fortune, returned to England, and became an East India proprietor and large-scale merchant and ship-owner. He was an early promoter of the British American Land Company and subsequently became a director of the Bank of England and, in 1834, chairman of Lloyd's. In 1826 he was returned as one of two whig MPs for Worcester, a reasonably open borough which he held with good majorities until 1837, when a radical was elected in his stead. He was the type of merchant-politician who stood completely outside the partisans' jockeying for office, but nonetheless felt his views and information were valuable to the House and the country at large. One of his self-appointed tasks during the thirties was to come down to the House early and scrutinize the petitions being presented by radicals, especially Joseph Hume. After he stood down in 1837 one of his supporters wrote to the Times to deny that he was a tory. He never, "while in Parliament, servilely crouched to the Ministers; and...though a Liberal, he is doubtless an honourable and independent man." Robinson made his first parliamentary speech on Canada in 1831, criticizing colonial church establishments and expressing suspicion of the Legislative Council. He next spoke on the colony's affairs more than three years later. In the meantime he had come into contact with Gould and the Gillespies, with P.M. Stewart and no doubt with Peter McGill himself, and from 1834 to 1837 he spoke in seven major debates on Canada, usually shadowing Roebuck. Most of Robinson's speeches inevitably suffered from his vested interest in the Land Company, but his major speech was a powerful one. When Lord John Russell introduced the Ten Resolutions in March, 1837, the first two sympathetic replies were from Robinson and Stewart. Russell had been answered by R.E. Leader for the radicals, and Robinson followed: he gave vent to the growing impatience with the

Canadiens, not only in the City but in the private feelings of many whigs, including ministers. His speech quoted some of the most damning passages from the Minerve, but Robinson was scrupulous in deferring to the traditional privileges of the Canadiens, concentrating his argument against the Assembly's menaces to the British parliament itself, to British colonists, and to the Constitution of 1791. The impact of this speech was not seriously weakened by the speaker who rose next, Daniel O'Connell, his speech was competently answered by Patrick Maxwell Stewart, who had also come down to the House prepared with samples of the more rabid semi-official patriote pronouncements.¹⁹ Neither Robinson nor Stewart ever made as good a speech on Canada again, for both were out of Parliament within four months. The remarkable fact was that in the most important debate on Canada in fifteen years, the first three speakers for the measure were the Leader of the House of Commons, and the two spokesmen for the North American Colonial Association.

Patrick Maxwell Stewart was a less interesting figure than Robinson, but important in his own sphere. He was born in 1791, fourth son of a Scottish baronet and MP. P.M. Stewart served as chairman of the Oriental Steam Navigation Company and of the London and Westminster Bank before his death in 1846; he helped found the British American Land Company in 1831. The Canadian radical agent, Henry Chapman, reported in 1835 that Stewart belonged to the "Derby Dilly", and his seat at Lancaster may have depended partly on the Stanley family's interest; this would help explain his defeat by a tory in 1837. He filled out his parliamentary career as MP for Renfrewshire, where his family's influence was strong, from 1841 until his death. In general Stewart was less prominent in Parliament than Robinson, and made only five recorded speeches on Canada between 1834 and 1837, one his rebuttal to O'Connell in 1837, and ~~the~~^{an} other the presentation of a Constitutionalist petition from Montreal early in 1835. The debate in Hansard

seems a fairly dull affair, but Chapman alleged that Stewart spoke so poorly that Stanley, Rice and Peel, all present, refused to parry Roebuck's counterthrust. "For the purpose of upholding the objects for which the CONSTITUTIONALISTS contend", gloated Chapman, "he is a thousand times more inefficient than the 'Jobber', of Worcester -- Mr. ROBINSON," Observers of the opposite bias alleged that Stewart spoke well, but was poorly reported by the Press.²⁰

Another occasional spokesman for the Canadian lobby in Parliament was George F. Young, the chairman of the General Shipowners' Society. His speeches, though delivered from the tory side of the house, were studiously non-partisan. He added nothing of importance to the debate on the government's Bill suspending the Canadian constitution in 1838; he was not, in short, an adequate replacement for Robinson and Stewart. Even less effective was the veteran Canadian merchant, Hart Logan, who was engaged in the NACA's activities in the mid-thirties. He was elected to the safe conservative county seat of Suffolk West in 1837, but died two years later without ever having made a maiden speech.²¹

One of the most interesting aspects of the parliamentary links of the North American Colonial Association was the absence from its ranks of one important house in the Canada trade: Ellice, Kinnear, and Company. Although Russell Ellice, the tory brother of the whig politician, was president of the NACA in 1839, the firm was not among the early members of the Association. This is quite understandable: the NACA was initially set up as a check on the government of which Edward Ellice was a member. Moreover, Ellice had reasons of his own for remaining reticent. His advice to the Select Committee in 1828 had flattered neither side in Lower Canada and was disregarded in the Committee's report. In the next decade Ellice never spoke publicly on Canada, though his views were often expressed privately against the whigs' conciliatory policy. Not until 1838 did he begin once more to speak on

Canada. He generally confined his remarks to fulsome praise of the ministry's measures, though he did overturn some of their details. His one major effort to advise the government on a new constitution for Canada, prepared at the end of 1838, was complicated and unconvincing.²² And he remained totally divorced from the formal apparatus of the North American Colonial Association.

It becomes evident, therefore, that the NACA did not present a very formidable appearance in Parliament. The NACA had no real spokesmen in the House of Lords, though prominent tory lords could always be found to present a petition.²³ The NACA did share in the success of the general lobby against the timber duties, but in Lower Canadian politics its successes were more limited. Stewart did not speak often or well; George Robinson spoke rather too often in defense of that unfortunate political football of which he was Governor, the British American Land Company. Both men developed fully as competent speakers on Lower Canada affairs just months before losing their seats. The NACA was a very poor match for the seemingly bottomless pool of Irish and radical speakers who were willing to rise in the House, up to the rebellion and even after it, to put the best possible face on Papineau's attempts to cement a French character more firmly on Lower Canada.

iv

There is a paradox in the study of pressure groups, for copious written evidence of their work may be evidence of energy, but not conclusive proof of influence. Formal letters to officials carry with them a confession that the writer's private access to men in power is narrow. Social intimacy with a Minister is generally worth more than a dozen petitions, but leaves far less trace on the record. The NACA always

carried on the bulk of its business with the Colonial Office in writing, and never had an obvious spokesman in the cabinet or the inner circle of whig politicians. Ellice was a sympathizer, but not a contact. This was all especially true before March, 1833, when Lord Goderich was Colonial Secretary and his headstrong Parliamentary Undersecretary, Lord Howick, was responsible for the North American colonies. Both were suspicious of colonial representatives and of the tory-appointed Governors in the two Canadas, so they tried to make important decisions on the basis of their own reasoning. The distance between the NACA and the Government on political subjects is emphasized by the apparently closer relations between them in dealing with administrative and legislative points which did genuinely concern the members of the NACA as London-based traders. Political subjects were accordingly broached in private communications, often with an alarmist, hyperbolic style of which Goderich was privately contemptuous. But the managing committee of the NACA as a whole was brought into the constitutional debate by the Assembly's Ninety-two Resolutions of March, 1834.²⁴

Informally the firms in the NACA had been critical of Lord Aylmer's administration throughout the early thirties; this antipathy was no secret, and came to a head over the suspension of James Stuart as attorney-general. In 1833 leading traders petitioned Lord Goderich and then Stanley in protest against Aylmer's treatment of Stuart. Stanley did not restore Stuart to the office by then being competently filled by Charles Richard Ogden, but he did offer him the vacant post of Chief Justice of Newfoundland, which Stuart refused. Stanley also worked with some of the NACA's leaders to clear away the last obstacles in the way of the fledgling British American Land Company.²⁵ To some extent Stanley may have been responding to the initiatives of the NACA, but it seems more likely he was merely reacting against what he

believed to be the imprudent leniency of past whig policy. Stanley went out of office a year later, leaving a Select Committee of the Commons reviewing events since 1828 in the Canadas. It was, in effect, a reconvening of parliamentary survivors of the previous committee, leavened by some rising young men and other interested parties, notably Howick and Roebuck, Robinson and Stewart. The committee was an energetic and prompt response to the Ninety-two Resolutions, and really marked the advent of Lower Canadian disputes as a subject of prominent, if intermittent, public and partisan interest in Britain. The Committee was proposed by Roebuck, but was quickly turned by Stanley into an effort to discredit Goderich's complacent handling of Papineau and so justify Stanley's own plan, strongly supported by Ellice in private, to suspend Howick's revenue act of 1831. Although the NACA placed its two MPs in the Committee, the managing committee consulted with Stanley, Lord Sandon, and other influential whigs, and decided not to bring its case forward.

They were... advised that it was needless for them to produce any evidence, as those Delegates [Viger and Morin] had not only failed to make out their case, but had exhibited themselves so decidedly in the character of violent partisans,... that the only impressions created by them were unfavourable to the views they sought to support.²⁶

Stanley evidently wished to keep the matter in the hands of the politicians, rather than the interested parties out of doors, and he would have been embarrassed if the NACA had brought up the question of reuniting the Canadas, which he thought premature. But Stanley, like Huskisson in 1828, lost control of the proceedings by going out of office. His successor, Thomas Spring Rice, was reluctant to proceed with Stanley's measure; Rice appears to have been influenced by a fact pointed out forcibly by Howick, that the division lists on the Ninety-two Resolutions showed Papineau had been

deserted by some seigneurs and influential city members, notably Neilson and Cuvillier. The Select Committee was therefore induced to issue a terse report vindicating Goderich's and Murray's administrations and studiously avoiding the problem of how to deal with the Assembly if it continued obstinate. The Colonial Association was severely disappointed.²⁷

But from the time of Spring Rice's term at the Colonial Office the Colonial Association began to aspire to a strong voice in the private deliberations of the Colonial Office, and sought to be informed of the government's views before these were made public. The Association was helped by the quickening pace of politics in Lower Canada. The Assembly's behaviour caught the attention of the British Press, and doomed the patriotes as the favourites of British liberals. Howick noted during the select committee's proceedings that although Morin was "very intelligent" his testimony on emigration and settlement "shewed so unreasonable a disposition, & was so unfair in his construction of the acts of Govt as to produce a stronger impressⁿ agst the Assly than anything that has yet taken place."²⁸ The NACA from this moment onward had a better chance of impressing the Colonial Office than the patriotes had, even if it lacked the strategic advantage of Roebuck's parliamentary following; and Gould confidently included copies of the Ninety-two Resolutions in his dossiers of anti-patriote literature. The Assembly's new militancy also strengthened the constitutionalist cause in the colony. From the middle of 1834 Stewart and Gillespie were fortified by possession of a petition from Montreal with nearly 12,000 signatures, including more than a thousand Canadiens.²⁹

The possession of a petition, and the ability to speak for a wider constituency than a clutch of traders, did not in itself give the NACA policy or tactics, though it gave the managing Committee a certain status and respectability it had

previously lacked. Individual members of the NACA might favour reunion of the Canadas or, in the case of Gould, annexation of Montreal to Upper Canada;³⁰ but their brief as agents of the constitutional meeting did not go beyond ensuring that the government, and public opinion generally, were awake to the profound discontent of the colony's loyal population. The NACA was hampered by the fact that it wished to influence the Government, not harass or embarrass it. The correct tactic was therefore to try as far as possible to identify the Government with the apprehensions of the constitutionalists, and the immediate objective was to get the Colonial Secretary to present the constitutionalists' petition in Parliament. After much vacillation Rice did not present the petition. The parliamentary session was drawing to a close, and after consultations with Rice and Lord Sandon, Patrick Stewart decided the petition should be withheld until the next session. Stewart seemed satisfied with the arrangement, and the delaying tactics might have succeeded had Spring Rice not suddenly been thrust from office with the rest of the Melbourne ministry in November. At the time of his departure Rice was on the point of choosing a commissioner to go to Lower Canada to resolve the crisis on grounds that would have been acceptable to most signers of the Montreal petition.³¹

The change of ministry brought to the Colonial Office, reluctantly, the Earl of Aberdeen, whose real métier was foreign affairs. Early in January, 1835, Gould briefed Aberdeen thoroughly on the NACA's view of recent events, and Gillespie forwarded more rather outrageous correspondence from Montreal. Changes in the attitude of the Colonial Office were subtle, but real. The NACA's correspondence began to be filed with official letters, not with the private effusions of miscellaneous individuals.³² New instructions were drawn up for a commissioner and they embodied the same sort of

determination to check the expansion of patriote power with which Spring Rice had satisfied Stewart six months earlier. At last, on 24 March, Aberdeen did what Rice had avoided -- he rose in Parliament to present the petition from the Montreal constitutionalists, the same petition which Stewart had just presented in the lower House.³³ The remarkable thing about these activities is that they were bipartisan at a time when the Ministry was struggling unsuccessfully to survive. The issue's new-found prominence was due not so much to the efforts of the NACA as to those of Papineau and Roebuck. Roebuck's rising interest in Canada was easily explicable in terms of his boyhood spent in the colony, and an anxiety to assist Joseph Hume in advocating the claims of the Canadian radicals. Roebuck may also have been trying to widen the rift between Stanley and the whole liberal opposition and, Gould alleged, he was striving to earn the full salaried agency which he did receive in 1835.³⁴ Roebuck's intervention brought before the public one starkly simple interpretation of an issue most politicians were trying, in the interests of conciliation, to keep blurred and indistinct. Henry Chapman provided an amusing analysis of public opinion for the Vindicator. His premise was that British opinion was unformed on Canadian affairs, and that all publicity would ultimately benefit the Assembly.

The papers apparently against you, but in fact for you, are the Times and the Morning Herald. The Times gives you a broadside now and then, say once in three or four months. The Herald fires off a small shot on the arrival of every packet. The Times.... treats you with a column, and then forgets your very existence almost. The Herald on the other hand, vouchsafes you a dozen lines or so, once a fortnight.... but [the Herald's articles] are utterly incomprehensible by everybody here, except a few Canadian merchants who

understand Colonial slang.... I can only say of the Times that the crying sin of Canada is, that her cause is advocated by such men as Roebuck and Hume, supported by O'Connell, Molesworth, Grote and so forth.

On the other hand the Globe, Morning Chronicle, Spectator, True Sun and Atlas, reported Chapman, had all reprinted from the radical papers in Canada.³⁵

Chapman's analysis was stimulating, but his conclusions were upside down. He and Roebuck misled Papineau seriously throughout 1835 about the prospect of increasing radical influence in British politics. The Quebec and Montreal Gazettes were closer to the mark in gloating that the Times was worth far more to the constitutionalists than Roebuck could ever be to the patriotes. Early in February 1835 the Times printed a strongly worded complaint from an anonymous Canadian, stressing that "The want of education among the French majority, and their consequent inability to form a correct judgment of the acts of their political leaders, have engendered most of our grievances." The Times warned its readers that the maintenance of the old laws in Lower Canada "assist the sordid and oppressive policy of the race of French Canadians against those of British blood." Blackwood's, too, published a lengthy review of the patriotes' benightedness in its June number.³⁶ The original material for this journalistic campaign against the Assembly doubtless came principally through the leaders of the NACA; but political events in Britain were to neutralize this temporary advantage.

Throughout the same session which saw such a strong presentation of the constitutional viewpoint, the newly-elected House of Commons was moving to oust Peel's ministry. The crucial votes came in February on the election of a Speaker, and on motions for partial disestablishment of the Church of Ireland in April. The ministry resigned on the night of 8 April. The mechanism behind this overturn was

the Lichfield House Compact, an informal agreement among whigs, radicals and Irish repealers to ignore their mutual differences in pursuing the common cause of turning Peel out. The paradoxical result of the election of 1835 and the Lichfield House Compact was to strengthen the tory party in the Commons, but to bring the whigs to power, dependent on radical and Irish support. This alliance looked extremely unstable, since leading members of Melbourne's second ministry had sat in tory cabinets during the twenties, but many ministers had special concerns which would have suffered under any other coalition of parties in the existing House. Although the sympathy of the country moved steadily towards the tories between 1834 and 1841, the ministry shifted to conciliate its indispensable radical supporters. An early casualty of this marriage of convenience was the loose sense of common purpose between ministers, the permanent staff of the Colonial Office, and the NACA. The new cabinet in 1835 would try again to conciliate the French Canadians.³⁷

To the commercial concerns of the NACA, the return of the whigs to power did not justify the abuse their members, particularly Bliss, hurled at the departing ministry in November, 1834. Spring Rice as Chancellor was not an ambitious, reckless reformer as Althorp had tried to be. The new political under-secretary at the Colonial Office, Sir George Grey, was helpful and sympathetic in the long-disputed matter of vice-admiralty court fees at Quebec; and Poulett Thomson's dreaded select committee on the timber duties was hobbled by the shipping interest, and only the comparatively unimportant preference on colonial hardwoods was lost during the later 1830s. On Canadian political questions a heavy correspondence continued, but it soon became clear that the Colonial Secretary, Lord Glenelg, might be driven by circumstances but would not be led by argument to offend the patriotes. The tories' instructions to Lord Amherst as commissioner were redrawn many times, each time losing a

little of their edge until even the question of electing the Legislative Council, firmly rejected by Peel and Aberdeen, was shrouded in woolly equivocation. The commission was enlarged and its scope of inquiry broadened, its scope for action almost nullified. The fundamental failure of the NACA to influence the government's views was evident in the commissioners' instructions. Amherst was to act: Gosford was to delay. Procrastination was defended by Glenelg in 1836 on the grounds that it had allowed the government time to allay the really constitutional disputes in the other North American colonies, but none of this could gainsay the additional animosities which delay had caused in Lower Canada itself.³⁸

At the same time the NACA began to grow in importance. Early in 1835 the fledgling constitutional associations of Quebec and Montreal named two delegates to visit London and collaborate with the NACA. They met Glenelg, Rice, Melbourne, Stephen and Grey, and Chapman found the whigs' attitude much warmer than the treatment Viger, Morin and Roebuck had received in 1834.³⁹ Undoubtedly the alliance with the NACA gave this deputation an ease of access to official and social life in London which had been denied to the patriote delegates, and the grievances of the constitutionalists were appended with a host of minor topics to Gosford's brief; but this did nothing to instil in the commissioners' instructions the notion that the non-payment of official salaries was only a secondary aspect of the struggle between Papineau and his antagonists. The ineffectiveness of these delegates and of the NACA in 1835 must be attributed in part to the whigs' reluctance to appear to be acting under the influence of any of the colonial parties, and their élitist inclination to make policy through their own official advisors and other experts. Another clue to the impotence of the NACA at the time must be sought in the character of Gillespie's corres-

pondence. These letters enclosed correspondence from Montreal and Quebec which frequently asserted the British Lower Canadians' willingness to break off from Britain if there was further truckling to the French-Canadians. One letter written from Montreal at the end of 1834 feared a canadien insurrection with help from France, and mentioned the writer's making duplicate copies of business records for safe-keeping in Upper Canada.⁴⁰ This was not representative opinion, it was not even good inflammatory journalism, and for Gillespie to send it to Aberdeen along with some much sounder material must have prejudiced his Association's chances of getting a friendly hearing in dealing with a new ministry still inclined to suspect that the Canadian correspondents of the NACA were themselves among the instigators of the few legitimate grievances of which the patriotes could complain.

The NACA continued to perform poorly during 1836, despite reverses for the whigs' policy in Quebec. Roebuck scored a minor success in Parliament by curtailing the charter of the Bank of British North America. The promoters of this institution, which was designed to reduce the chaos in exchange transactions between London, New York, and the colonies, included Robert Gillespie and Robert Carter. Roebuck induced Parliament to limit the bank's charter to Britain, and force it to act without a charter, or to seek local charters, in each of the individual colonies.⁴¹ Even the Press began to take an independent line. In mid-1836 the Times printed a series of letters by the Upper Canadian reformer Egerton Ryerson. Ryerson was quite as anti-French as Gillespie, but he probed the politics of the Lower Province with constitutional argument and a wealth of detailed knowledge which contrasted favourably with Gillespie's frights and alarms. In the leader columns the Times always sought policies which would keep in view the known wishes of the existing colonists instead of looking always, as the

NACA was apt to do, to the putative British majority which emigration would create.⁴² It was only at the end of 1836, when Gosford's failure was patent, that Gillespie's advice again began to show some similarity to the actual problems being discussed at the Colonial Office.

The end of 1836 was a time of turmoil at the Colonial Office. When Elzéar Bédard failed to pass the arrears in February he was promoted to the Bench, so it was a foregone conclusion when the Assembly met again in August that Papineau would have a clear field. In mid-November, therefore, a secret memorandum from the Colonial Office advised ministers to consider another partition of Canada to segregate British from French colonists. The colony would be divided along the St. Lawrence, and Glenelg grimly noted that if the French in their area remained intransigent, "the task of further coercion would be comparatively easy". This impracticable proposal was before the cabinet when Robert Gillespie's "Remarks respecting the Canadas" were delivered early in December. These were divided into two parts, the first a covering letter summarizing courses of action open to the government, the second a rambling discourse on the effects of letting the present crisis continue to its inevitable sequel, the dissolution of the Empire: "Deprive Great Britain of her Colonies and the Sun of her glory is set, she will soon lose Ireland, and from being the most powerful nation in the world, take her place by the side of Denmark." The memoranda were curiously inconsistent; the covering letter endorsed legislative union of the Canadas, but the memorandum accurately predicted that the reformers of Upper and Lower Canada would co-operate in seeking self-government for the united province. It is impossible to say how much influence these papers had on Glenelg, but the next proposal from the Colonial Office was more nearly consistent with Gillespie's advice, and Stephen assured a sceptical Howick that the NACA would definitely approve of it. According to this plan,

French and British colonists would be again divided into separate legislatures in a loose federation. This proposal shared the NACA's determination to govern in the interests of the British settlers and also showed the creeping influence of the idea of Canadian reunion.⁴³ But once again the whigs panicked and fell back on the advice of an expert, in this case Sir Charles Grey, the first of the commissioners to return to England; and largely under Grey's influence the plan of December was scrapped during January.

Grey was customarily spoken of as the commissioner most sympathetic to the aspirations of the "English party" in Lower Canada, but he was in no sense connected with that party or its interests. (He even stood as a whig against G.F. Young at Tynemouth in July, 1837.) In fact Grey wrote energetically of the need to conciliate the British, not the French, portion of Lower Canada, but his objections to Glenelg's plans were weightier than any original proposal he could initiate. The ministry then fell back on the general report of the commission and prepared the celebrated Ten Resolutions of March, 1837. Those resolutions obtained a notoriety beyond their constitutional importance; they never became law. They were inspired by the commissioners' remark that the best measure the government could devise would be whatever seemed most likely to command the largest majorities in Parliament, and detailed plans and analyses were therefore scrupulously avoided. The resolutions were greeted warmly by the NACA in parliament; Robinson and Stewart supported the government enthusiastically, but also defended the mass of the French Canadians from the British radicals' allegation that all wished for independence, and Robinson particularly stated his willingness to continue the cultural privileges enjoyed by the Canadiens since 1763. The parliamentary wing of the NACA was happy to be generous in its victory.⁴⁴

The resolutions provoked a storm of protest in Lower Canada, even though they were never carried out in full.

(The Executive and Legislative Councils were enlarged, and the salary arrears were paid by a loan from the British Treasury, in August.) Colonial society had never been so polarized, yet individuals continued to leap from one camp to another. Meetings which stopped just short of treason were held throughout the seigneurial counties all that summer, and when Gosford called one last session the Assembly did not even proceed to business, and left many useful temporary acts to expire, including the provincial bank charters. Once again the NACA took fright. An important letter from Robert Gillespie late in November said that although rebellion was not imminent, the colony had no legislature and the Imperial Parliament must fill the gap with its own enactments. The Cabinet had already set a precedent during the summer by giving royal charters, identical to the expiring legislative ones, to the colonial banks. Gillespie proposed to carry this precedent much further:

Unless certain Acts are passed by the Imperial Parliament for the Establishment of Register Offices, the abolition of Lods & vends & other feudal rights, the Improvement of the internal Navigation Harbours &c there will be no peace in the Province.

These reforms would not dampen the ardor of the French, but would mollify the British colonists for a time. This letter was quickly overtaken by events, but on 21 December Gillespie wrote again.

Let the hands of Government My Lord be strengthened
.... Let the Government & Revenues of the Province be vested in a Governor and Council for a time with power to legislate; let this Legislature pass such laws as the Province requires and when matters settle down (as they would soon do) the Representative system might again be resorted to as more agreeable when better understood to all parties. By such means the Home Government would divest themselves

of much responsibility, much trouble, and after all Parliament might not enact Laws suited to the wants of the people.⁴⁵

In substance this is precisely what was done, but this striking similarity is not conclusive evidence that Gillespie's advice was decisive. Certainly there was much confusion in Cabinet over what sort of interim authority should rule the disturbed province, but by 30 December all ministers seem to have accepted the need for an emergency Council with at least some of the powers of the erstwhile Legislature. On 2 January Gillespie sent a draft act to the Colonial Office which with minor exceptions became the bill enacted by the House of Commons on 26 January. Some extraneous material introduced into the government's bill by Howick, which Gillespie disliked, was removed by Russell after strong public opposition from Peel and Ellice and the reading of Gillespie's letter in Cabinet.⁴⁶ In short, the similarities between Gillespie's proposals and the plan enacted by Parliament seem too striking to be coincidental; the NACA and the Colonial Office, after drifting apart during 1835 and 1836, were by the end of 1837 thinking along almost identical lines.

v

At this stage in the crisis the Montreal constitutionalists took charge themselves of the presentation of their case, as George Moffatt and later William Badgely arrived in London. The NACA withdrew from formal contact with the government, though Gillespie did send a warm note to Durham in April, welcoming his appointment, and wrote to John Neilson at Quebec at the same time, advising him to be friendly and open with the new Governor. Gillespie was associated with Badgely as the NACA's delegate to the Colonial Office when Moffatt went home in April, and was sole agent for the constitutionalists after Badgely, too, returned to Montreal in August.⁴⁷ The

NACA was almost at once embroiled in the crisis over disallowance of Durham's ordinance banishing prominent rebels to Bermuda. A special meeting of the managing committee was called to echo the feeling of the "British" party at Montreal, that Durham's ordinance was perhaps too lenient, but was well-intentioned and ought to have been supported. This resolution was so moderately expressed that it did not chill the government's friendly relations with the NACA. Gould and Gillespie were regular callers at Downing Street and at length, after news of the second rebellion reached London, the Colonial Office unbent in its attitude to Gillespie, adopting a tone that seemed genuinely more friendly than in earlier communications. "Lord Glenelg will be happy to receive from you any further information or suggestions which you may be disposed to communicate."⁴⁸ Glenelg was losing his grasp of affairs: utterly alienated from the French Canadians, disillusioned and betrayed by the government's own emissaries, and aware that the British in Lower Canada must be courted and conciliated as assiduously as the French were wooed before 1837, the Colonial Secretary was eager to hear any reasonable proposal, even from the interested parties who had formerly been kept at arm's length.

And yet the NACA forfeited the privilege of being an important adviser to the government. Once again the Association's plans for the short term were enacted with small modifications: the Special Council was enlarged and its powers extended. This had also been recommended by the Governor, Sir John Colborne.⁴⁹ But the Association's long-term proposals were shelved by the Colonial Office until delivery of Durham's Report, which once again prompted the government to turn to the inner circle of its own experts. The report caused the government some difficulties but it contained two major features which would make it difficult to disregard: it recommended union of the Canadas, which the whigs had been

groping towards and Montreal constitutionalists clamouring for since 1836; and it revived one of the cherished principles of whig optimism, that the French Canadians could be led where they could not be driven, to an acceptance of the growth of the British community in their midst. The managing committee of the NACA summoned a special meeting to consider the report. It flattered Durham, glossed over the disreputable aspects of his short mission, and praised the principle of union. But it quoted one of Russell's Ten Resolutions, which condemned responsible government, and it denounced a legislative union if the franchise and representation were "based on population alone without distinction between the loyal and Insurgent Inhabitants."⁵⁰ This was the keynote of agitation by the NACA during 1839, and was an important element in an able pamphlet published by Henry Bliss as the NACA's contribution to the propaganda campaign waged around Durham's Report. The NACA advised redrawing electoral boundaries to give the British settlers a majority in Lower Canada itself, because the French were not to be trusted with a franchise which they put blindly at the disposal of seditious leaders, and because the British inhabitants were one-third of the population (an exaggeration), carrying on "almost all the Commerce of the Country and holding a vast amount of its property and originating and conducting its only improvements" -- an argument for a whiggish franchise. The Government eventually adopted the compromise which Sir John Colborne favoured, to weight the representation towards the British by giving the smaller population of Upper Canada equal representation with the lower province. (Even this plan had a fairly rough passage through Parliament.)⁵¹ The NACA would have been wiser to support this scheme rather than the wilder one of basing a constitution on the presumed disloyalty of large districts of the colony.

The autumn of 1839 saw the complete destruction of the NACA as a party to whom Government could turn for advice.

The disgrace occurred when it became known the Ministry would appoint the free-trader Charles Poulett Thomson as the new Governor-General. The NACA panicked; its tory chairman, Russell Ellice, wrote to Melbourne on 22 August that Thomson could not expect the cordial support of anyone in the colony; Melbourne's answer was so charmingly irrelevant that the frustrated Ellice sent the correspondence to the Times. The whig Morning Chronicle retaliated with an unfair attack on the whole managing committee of the NACA: it was composed, said a leading article, of tories, blindly disposed to embarrass the government; of Nova Scotian and New Brunswick traders who cared more for the timber preferences than for the real interests of the Canadas; and of profiteers who wished the troubles, and hence the garrisons, to continue in Canada.⁵²

Undoubtedly the NACA was right to say the great majority of British Canadians would have preferred to keep Sir John Colborne, and if a civilian must be sent to them, they would not have chosen a Baltic timber merchant. But this would not "necessarily deprive him of their confidence," and the merchants of Quebec and Montreal, urged by Gould to petition against Colborne's recall and Thomson's appointment, welcomed him instead as a fellow-merchant. The NACA also misjudged the Governor himself. Thomson had a curious mixture of conscientiousness and opportunism which had permitted him to spend four years as President of the Board of Trade, making steady but piecemeal amendments to the British system of tariffs, and without forcing doctrinaire or extreme measures on his colleagues. Moreover, as Ellice ought to have known, Thomson was staunchly anti-French, opposed to Howick on Canadian conciliation, and strongly committed to the reunion. Finally, Thomson's appointment was part of an elaborate readjustment of the Cabinet and could not have been rescinded at the last moment without great difficulty. So the Press

campaign and petitions from London, Birmingham and Glasgow against the appointment merely served to discredit the NACA as a participant in the formation of Canadian policy.

vi

The North American Colonial Association continued to exist. Its last formal representation to the Colonial Office was a fruitless support for Gladstone's attempt in 1849 to have the Rebellion Losses Act disallowed. The Association continued to correspond with the whig Colonial Secretaries after Glenelg's departure, and worked sympathetically with Stanley in the 1840s to try to rationalize the Canadian corn preferences.⁵³ But as a political organ it reduced itself, by the Thomson incident, to its original status as a miscellaneous correspondent pleading on behalf of vested interests. In retrospect, it enjoyed modest success in advancing the purely commercial interests of its members. Its political interventions were less effective. Canada would doubtless have been a major political and journalistic issue without the efforts of the Association, though the NACA was a useful channel of information to the Press and public, drawing attention to what was significant in the Canadian newspapers. The NACA's influence at Downing Street was limited to Aberdeen's few months in office and the period from early 1837 to the end of 1838 when the Government had to face the desperate task of regaining the confidence of the British in Lower Canada, and had little faith in its Governors in the colony. Ministers were thankful enough for the support of Robinson and Stewart in 1837, and Gillespie may fairly be regarded as an architect of the Special Council of 1838-41. But by concentrating after 1838 on the military threat of the United States and the need to proscribe the French Canadian rebels indefinitely, the Association lost touch with the real

options facing the Colonial Office which, especially with the appointment of Thomson, reverted to the traditional policy of trusting to its own experts. The brief success of the NACA was an accurate reflection of the bankruptcy of Lord Glenelg's policy during his last year in office. But on the whole it is not surprising that the whigs clung to their resilient tradition of governing in accordance with what they conceived to be liberal principles, as interpreted and applied by the inner circles of their own party.

Chapter 7: The British American Land Company

i

Land was among the crucial issues dividing colonial opinion in Lower Canada before the rebellions, especially after 1828. It posed an administrative problem containing all the elements that divided constitutionalists from patriotes. It was a financial issue: after 1826 the ungranted lands were seen as a source of revenue, not yet at the disposal of the Assembly. Administration of land was a partisan issue: the Executive Council made grants before 1826, and the Commissioner of Crown Lands after that date could influence the selection and price of lands to be brought onto the market. It posed moral questions: the Council before 1809 and some township agents after 1820 were corrupt. Political theories clashed in their rawest form: did the lands belong to the existing habitants in trust for future generations of Canadiens, as the advocates of popular sovereignty thought, or to the Crown for all its subjects by right of conquest and treaty? For these reasons the administration of land was a potent element in the cultural rift in Lower Canadian society: Canadiens and British colonists looked to the large, unsettled fertile tracts of the Eastern Townships to determine the issue of demographic and thus political superiority. The checks and balances between imperial initiatives and colonial obstinacy worked in this field as in so many others, for the executive jealously retained power over new grants, while the Assembly after 1817 guarded the funds which might have been used to facilitate access and stimulate settlement in the Townships. Neither, acting alone, could make an efficient effort in the

interests of its own partisans, nor could it correct the grave impediments which the system of crown and clergy reserves, and the improvident grants of 1802-09, had created. The executive had the power but not the funds to settle the townships; the Assembly had so much power in other respects that successive Colonial Secretaries, if they thought about the problem at all, were reluctant to intervene in the matter. The answer to all these problems, it seemed to some interested observers, was a private corporation which would relieve government of the odium of day-to-day administration of land grants for settlement and revenue, and at the same time carry out the British government's covert policy of checking the patriotes without challenging them directly. The mechanism which the Montreal and London merchants evolved for this political, social and economic strategy was the British American Land Company.

ii

One sidelight of the dispute over township lands was resolved early and easily. The granted township lands were held in free and common soccage, but there was no legal bar to the government's making new grants en fief et seigneurie. The Select Committee of 1828 suggested new seigneurial grants might be made beside seigneurial lands when the latter were filled up.¹ These qualifications amounted to a refusal, though the Committee may not have realized it. In 1831 the question was put to the test when Lord Aylmer sent the Colonial Office an application for enlargement of a seigneury by a grant from adjacent Crown lands. James Stephen reported: "These are not times in which it is possible to gratify such whims when their indulgence can only be had at the expense of great national objects."² John Neilson and Andrew Stuart,³ and many British seigneurs in the Montreal district, had

successfully settled British emigrants onto seigneurial lands, and owners of such lands tended for obvious reasons to encourage the idea that the "feudal" burdens were no worse than what the emigrant farmer was accustomed to put up with at home;⁴ but the entrenched opinion was that extension of seigneurial tenure would discourage British emigrants from settling in Lower Canada's "waste" lands, while if French Canadians declined to settle on soccage lands it was a sign of apathy or ignorance. Seigneurial tenure involved free grants with a small but permanent rent to a private individual, the seigneur; soccage tenure involved an early outlay of capital and a few early and fairly heavy payments ending with freehold ownership. The soccage system encouraged accumulation of capital before purchase, and concentration on cash crops afterwards. Tenure en fief was consistent with the survival of subsistence agriculture and, through payment of rents in kind, with barter. These economic facts, and a vague theoretical dislike for the remnants of vassalage in the seigneurial system, underlay the British colonists' disgust towards seigneurial tenure in the countryside. After 1831, no serious effort was made to extend the seigneurial system into ungranted lands. The decision placed the Canadien, not the emigrant, at a psychological (though not a material) disadvantage in respect to taking possession of Crown lands.

The political opposition of the patriotes was not the only bar to filling up the vacant lands. The administrative machinery was cumbersome. An early decision had been taken to centralize the granting of lands so the executive could control settlement; the intending settler, having chosen his lot, still had to go through expensive and cumbersome legal processes in far-away Quebec City. This was evaded in the first years of the nineteenth century by the system of "leaders and associates", a legal fiction creating, in effect, small private corporations taking free grants and then selling them piecemeal

for profit. This spontaneous system coped tolerably well with Loyalists and post-Loyalist immigrants from adjoining parts of the United States.⁵ But a further obstacle was the crown and clergy reserves. Out of every nine lots granted, one was reserved to the Crown and another for the support of a Protestant clergy. The Crown would speculate in its own lands, leaving these lots in wild state until private land-owners had improved adjacent lots and made the reserves more desirable. In fact the reserves held back the improvement of settled lots, for the settler in remote districts could have few more valuable assets than helpful neighbours, and the unsettled reserves played havoc with the administration of the road laws. The reserves grossed only a negligible income from nominal purchasers, who paid a downpayment, stripped the timber, and abandoned the lots in a more unpromising state than before. A potential asset was squandered, and the inconvenience to bonâ fide settlers remained. Even more damaging were the huge grants made to friends of the executive and to members of the land board -- the Executive Council itself -- under the administration of Sir Robert Shore Milnes. These abuses were largely curtailed under Sir James Craig, but left a permanent legacy of inconvenience as a result of corrupt grants to speculators.⁶

The term "land speculator" or "jobber" had derogatory overtones even in the early nineteenth century. Yet commentators as different as Edward Ellice and Charles Buller both testified in 1839-40 to the benefits which legitimate speculation had brought to the United States and might provide in Canada. In Buller's analysis, land speculation worked well in the United States because it stimulated settlement and the private provision of amenities. The ingredients of this success, wrote Buller, were an atmosphere of optimism which attracted capitalists with ample resources, buttressed by a small tax on wild lands to discourage excessively long-term

speculation. In Lower Canada, by contrast, almost every owner waited on the efforts of his neighbours, and little was done except ironically by squatters, who inadvertently performed for many grantees the small settlement duties without which free grants were nominally subject to escheat.⁷ Finally, the Eastern Townships suffered from the rival attractions of unsettled lands in Upper Canada and the American midwest, further from the sea but with adequate transport. But the main obstacle seen by Buller and others was the lack of capital for speculative development of lands, not just speculative purchase. A list of large township holders in 1838 showed many tracts in the hands of trustees of estates, and included few of the really prominent and well-to-do who might be expected to find the capital for improvement.⁸ For as Edward Stanley observed during his visit in 1824, what the Townships really needed were a few eccentric speculators who were willing to spend large sums on improvements without any hope of seeing a profit in their own generation.⁹ There were in fact a handful of such speculators in a small scale: Edward Ellice reinvested in improvements virtually all the profits of his valuable seigneurie of Beauharnois during the early 1830s. John Richardson in the early twenties helped pay for a public road from Sorel to Drummondville, which passed by lands he owned. W.B. Felton, who acquired large grants near Sherbrooke both before and after becoming Commissioner of Crown Lands, candidly admitted in 1829 that "his object in settling in this Country was to obtain lands and form an Estate for his family, and that to accomplish this, he has already expended a very large sum of money."¹⁰ But by 1831 this sort of private venture seemed inadequate, and the obvious solution lay in the new form of corporate organization, the joint stock company. The advantage of such a system was already being tested in Upper Canada by the Canada Company, and was appealing in the lower province.¹¹ First, it would provide opportunities for

constructive speculation by newer members of the mercantile élite who had not shared or inherited the free grants of twenty years before. Second, it would provide convenient access to the British money market -- capital was perennially short in the colonies, and loans for improvements to real estate were rarely made because of the uncertainty of old titles, mortgages, and surveys. A joint stock company would spread the risks and, by seeking a large fresh grant from the Crown, would hold the bulk of its assets under undisputable title. Third, a well-capitalized venture could buy up awkwardly-placed Crown and clergy reserves, and unimproved small-holdings. Fourth, the company could co-ordinate encouragement and information on both sides of the Atlantic for intending emigrants, and could provide in the townships themselves local land agencies which were denied to the settlers of most townships by the cumbrous centralization adopted before 1800. Fifth, in the political sphere, the Land Company could with the co-operation of Government preempt a huge tract of land, preventing unpredictable concessions to the patriotes by future Colonial Secretaries. The British American Land Company would be, in its own limited sphere and profiteering fashion, a venture in colonial self-determination for the capitalists of Montreal.

For there was no doubt, almost from the start, that the Land Company should be an instrument of public policy in the hands of anti-patriotes on both sides of the Atlantic. In Britain as in the colony, opinion might differ on the wisdom of antagonizing the Assembly, as formation of the Company would surely do; doubts would also exist about the viability of the fledgling company itself and the propriety of the proposals it made to Government for the purchase of Crown lands, but a broad spectrum of opinion held that British emigration to the Eastern Townships should be encouraged, stimulated and directed with an energy that the Government could not muster. In Britain, the opposition to this view

was miniscule, and was located in the extremes of politics. On the tory side, the emigration expert Colonel Cockburn outraged Dalhousie and others in the twenties by echoing the patriote line of argument that Lower Canada was chiefly valuable to Britain for the cannon fodder that the habitants provided, and that the cultural differences between the habitants and their southern neighbours were well worth preserving; according to this view, the Eastern Townships should be set aside for the growth of the French Canadian nation and British emigration should be directed elsewhere.¹² This was only slightly more progressive than the old and wholly ineffectual policy that a belt of twenty miles along the entire frontier should be impenetrable, unsettled wilderness.¹³ On the other political extreme, a few philosophic radicals supported the patriotes' claim that the Crown's rights could not override the existing population's right to self-determination in all matters including administration of land. Between these extremes lay a broad consensus that the lands of the colony were the patrimony of the empire, and should be open to British emigrants as a matter of public policy, important equally to British security in North America and to the relief of the British and Irish labouring classes. In 1836 John Arthur Roebuck, putting the worst possible face on these opinions, nonetheless admitted their strength in a warning letter to Papineau. Most British politicians agreed, said Roebuck, that the administration of land should eventually be given up to a colony as "a means of supply to meet the peculiar exigencies, of a new country." But when should these hypothetical advantages be bestowed on the colony rather than on the empire at large? Obviously not for a long time "in a colony just called into existence and dependent wholly on the metropolis." But Roebuck believed that when a colony bore the whole cost of its government, which he erroneously suggested Lower Canada did, then it should control its ungranted lands too.

The majority, I believe, of the House of Commons are opposed to this opinion. They have not it is true formed any very distinct idea as to the time when the exclusive administration should pass to the colonies, but as far as I could ascertain, the general feeling is, that so long as the colony remains a colony and is not an independent state, the wild lands belonging to it should be considered the joint property of the colony & the metropolis and that the proceeds thereof should be applied to their joint purposes.... [Because of] The pressing difficulties of Ireland.. the waste lands of the colony will be applied (if possible) to the dispauperizing of the estates of Irish Landlords.¹⁴

This British sentiment was totally at odds with the campaign of the patriotes, chiefly through the Minerve, to check immigration to the townships;¹⁵ it was much more nearly in harmony with the Montreal Gazette and the inflammatory leading article which cost Robert Armour his commission as King's Printer in November, 1832:

ENGLISHMEN! SCOTCHMEN! IRISH! BRITISH SUBJECTS ALL!.... The lands of CANADA were purchased of FRENCHMEN by our brave countrymen on the battle plains of ABRAHAM, and your renowned progenitors paid the price with their hearts' blood.... CANADA, therefore, BRITONS, is yours. The lands washed by the ATLANTIC on the east, and by the PACIFIC on the west, as far north as the POLAR Seas, are all yours. They are yours, for colonization, at your own time and pleasure, as it shall suit you to appropriate them to your use and benefit.¹⁶

The Canadiens, the article emphasized, were also British subjects, and should be equally privileged with other British subjects from older parts of the Empire, but no more so. On this vital question the opinion of British statesmen differed

from that of colonial 'tories' only in the degree of vehemence with which they expressed themselves. Of all the issues dividing races and parties in the colony, it was on land and emigration that the British colonists spoke most nearly with the same voice as the metropolitan society of which they were a fragment.

iii

A joint-stock land company for Lower Canada was first projected by W.B. Felton, Sir Francis Burton and others in 1825, but initial optimism withered in the financial crisis of the following year and only one such company took the field in the twenties, the Canada Company in the upper province. Interest in Lower Canada came to a head again in November 1831, with the appearance of a prospectus for the "Colonial Land Company", naming a typical group of nine City figures and assorted MPs as a provisional committee. Nathaniel Gould was in this group from the start, as was Patrick Maxwell Stewart. Three other MPs named were the unaligned member for Caithness, George Sinclair, and interestingly, two Irish Repealers, John Browne and E.S. Ruthven. Initial support for the company was encouraging, and by February 1832, a new provisional committee had taken shape, showing a more obvious concentration of British North American merchants, for it included George Robinson MP, Alexander Gillespie Jr., and Gould's partner James Dowie, as well as Henry Bliss. A report to shareholders on 2 February spoke optimistically about the Crown lands, estimated at 4m acres, and the "many private properties in the market, could purchasers be found on a scale commensurate with the quantity of acres to be sold." Emigration to the Canadas had reached a peak of 55,000 the previous season, and this, with the apparent success of the Canada Company, promised well for a new concern.¹⁷

Optimism in the City masked a more complicated situation in the colony. While Gould was drafting the prospectus, Lord Aylmer was warning Goderich against too hasty or too improvised an emigration. He had already expressed his strong doubts about one consequence of such an emigration during the summer of 1831:

I myself partake of all that partiality which so particularly distinguishes Englishmen [sic] in favor of their own Laws and Institutions, and should be most happy to see them universally established in all British Colonies; but in the case of this particular Colony it well becomes all those who are so eager to Anglify the French Canadians, to consider what those French Canadians would become on ceasing to be what they now are?

Would the change make them Englishmen, or Americans? He feared their character and principles would become more American, and the boom in pauper emigration excited all his apprehensions. The Minerve immediately justified his fears, denouncing British emigration as a plot to Anglicize the colony by stealth, and urging the Assembly to take control of the situation.¹⁸

In London, the secretary of the BALC and Lord Howick were just beginning nearly eighteen months of negotiations to establish a company with the avowed object of changing the cultural demography of Lower Canada. Howick had other problems at the moment, not apparently related to the company's request for a charter and a substantial purchase of Crown Lands on favourable terms. The Colonial Office was struggling to support the Church of England overseas, but the Chancellor had promised the House of Commons to eliminate the parliamentary grant for colonial clergy and the Lower Canadian Legislature would never pay for more than the Catholics and, perhaps, the Presbyterians. The grant to the Church of England might be shifted to the growing fund of Crown Land revenues, but what

would then become of it when that fund was turned over to the Assembly in exchange for a civil list? Howick's private belief was that every effort to support a minority church would bring it into disrepute, but he found Goderich so rigid that "I will make no further attempt to urge the very strong object^{ns} I feel."¹⁹ Then came the letter from John Galt, secretary to the BALC as he had been to the Canada Company. Galt held out the prospect of an artificially accelerated sale of Crown lands in the very colony whose Church finances seemed most intractable. As soon as capital subscriptions were well advanced and a more formal prospectus issued, Goderich agreed to meet Galt: almost the only stipulation he made initially was that the "improvement moiety" (half the purchase price which the government would spend in the tract sold) ought to be applied in part to churches, parsonages, and improvements to glebe lands for the established church.²⁰ This consideration, more than any other, apparently let Galt get his foot in the door at Downing Street.

Gradually an agreement began to take shape, influenced by Howick's fear that the company might try to speculate on a grand scale, and by Galt's determination, first to get terms no worse than those given to the Canada Company five years earlier, and second to give the company flexibility in choosing its holdings.²¹ The company was stubborn; the Colonial Office was ill-informed, dilatory and erratic, accepting the company's terms in mid-May and upsetting the whole arrangement again two weeks later. There were constitutional niceties surrounding incorporation by both royal charter and Act of Parliament, and there were other "objections... in a political point of view". This referred to strong representations against the Company by the Assembly's agent in London, D-B Viger, and to a recent warning received from Lord Aylmer,²² who sent a summary of available lands, but warned that the Minerve was hot on the heels of the company. It would become a "standing grievance" and one could only hope that it

would work well. In any case, Aylmer added, the executive must retain control of some funds because of the Assembly's determination "to controul the Executive Government in every possible way without regard to those Constitutional principles which regulate the practice of the Mother Country."

Aylmer afterwards referred to this despatch as favouring the company, but the warning bore more fruit than the rather lukewarm encouragement, and the reference to retaining control of the revenues was not likely to affect Howick, the architect of the Colonial Office's conciliatory policy. Nor was much attention paid to Aylmer's subsequent private letter a month later, written in the wake of the Montreal election riot of 21 May, retracting his earlier support for the cultural survival of French Canada and urging increased facilities for immigration, and reunion of the Canadas.²³ The government held to the course explained to the directors of the BALC in mid-1832, that they could get a charter and buy land on terms to be settled later, but could expect no special treatment on political grounds. Most of the summer was consumed in the company's efforts to prepare a charter, and then further delayed by Howick's refusal to proceed until the capital was pledged. Howick also objected to the clause permitting the company to hold up to 3m acres at a time: land was rising in value so rapidly that the Government should not sell more than was needed at one time. "Let them take any moderate quantity for which they choose to pay ready money, & let them hereafter encrease their purchases at the price of the day." Galt added the new argument that lands in the Eastern Townships were worth at best 75% of the value of new lands in Upper Canada, and invoked Edward Ellice's name in support of the company, though he would have been mortified to see how Ellice fulfilled his promise to write: "These Canada people plague me to write to you about their Land Company", he said; but he went on to argue that if the Colonial Office could realize 3s an acre it would receive twice what the land would be

worth in Howick's lifetime or his own.²⁴ Negotiations still lagged; Gould complained that the Assembly's hostility had cost the company all its financial support in the colony. Bickering continued on whether to value the land at Quebec or in London, and Gould warned in December that the Commissioner of Crown Lands and most Executive Councillors held township lands themselves and might be tempted to inflate the price. At the end of the year, Howick summed up the futile state of affairs by assuring Aylmer that the Colonial Office was willing to encourage the company's success, but had seen only objectionable offers.²⁵

In the colony rumours ebbed and flowed. During the September by-election at Quebec in 1832, George Vanfelson warned the Irish voters that the Land Company was intended to create in Lower Canada a problem of absentee landlords similar to that of Ireland.²⁶ Then Aylmer urged the Colonial Office to enter the business of land development itself: he and Felton had long believed, he said, that this plan was even more desirable than the establishment of a joint stock company; and he advised Goderich to raise a loan or mortgage of £10,000 and begin to settle Mégantic township, near Quebec.²⁷ In the Assembly, Papineau at last took the field in mid-March, deriding the township settlers' migratory habits in contrast to the deep-rooted attachment of the Canadiens to the soil. "They who had quitted the land of their birth, were willing to sell that of their adoption -- to sell for dollars -- all they had, and part with the asylum they had chosen for themselves for dollars -- dollars appeared to be their only aim." An address against the land company was passed by the Assembly and forwarded by Aylmer with the information that more than half the seigneurial lands remained unconceded, and the Government must not allow itself to be swayed by the "highly objectionable" views in the Assembly's address.²⁸

In London, Gould published in Fisher's Nautical Magazine a series of articles condemning political economy and urging

establishment of the BALC to introduce "new wants, new capital, new energies, and, what is most required, new feelings, among those inert descendants of the first French dispossessors of the Indians".²⁹ And late in February 1833 the company, represented now by John Reid as secretary, tried again. Reid tendered for $\frac{1}{2}$ m acres only, the company's conservative estimate of the whole remaining crown lands in Mississquoi, Drummond, Mégantic, Nicolet, Sherbrooke, Stanstead and Shefford counties. Aylmer was to report on availability and price, and the company would choose from his list those lands it felt were advantageously priced. At last the Colonial Office received Aylmer's report. He advised the government to limit the company at first to half the available lands, recommended 3s an acre as a fair price for the unsurveyed "St Francis block" in Sherbrooke County, and said the lands should be settled first from the American frontier, creeping northwards as the southern sections filled up.³⁰

By this time Goderich and Howick were out of office, and the more decisive, if impetuous, E.G. Stanley was in charge. Stanley was preoccupied early on with the abolition of slavery, but once he turned his attention to Lower Canada he took little time in coming round to Ellice's view, that something must be done to ensure the financial independence of the Executive. Stanley decided there was little point in waiting for either conciliation or immigration to change the politics of Lower Canada; it was time for the government to act, and chartering the British American Land Company was part of the aggressive policy that now seemed necessary. It may be of more than passing interest, too, that Edward Ellice became an important advisor to Stanley on Canadian policy, and that Russell Ellice, not an original promoter of the company, took a substantial interest in it some time before the end of 1834.³¹ Negotiations were reopened in August, 1833, and led to an agreement on 3 December.³² Although the Colonial Secretary clung to many of the principles of his predecessors a more cordial

spirit permeated the negotiations; Stanley's strong interest in augmenting the Crown revenues, and the company's impatience to start operations after two years in limbo were the moving forces behind the agreement, which was signed on 3 December.

Aylmer's report on values and availability of land had also swept away one of the main sources of contention between the Government and the BALC, and it was substantially in terms of his recommendation that the agreement was framed. The government offered an unsurveyed block of nearly .6m acres in Sherbrooke County at 3s. an acre. In addition the company was offered all available crown reserves and other surveyed blocks in the counties of Sherbrooke, Shefford, and Stanstead.³³

This was a substantial modification of early proposals. The size of the sale, 847,661 acres, was well within the early quantities applied for, and the concentration on the three named counties meant that the Company would have to purchase on the open market a foothold in Mississquoi, the most fully settled of the border township counties, and in Mégantic, Drummond, and the soccage portions of Nicolet. The company received neither a long common frontier with the seigneurial counties, nor ready access to the St. Lawrence. 3s an acre at 4% interest over ten years was a fair price for the St. Francis block; 3s 6d was an advantageous wholesale price for the rest. Patents of grants were to be made, without fees to local officials, in proportion as the payments were received, so if the company kept up its payments and interest it would hold free title to the whole tract in a decade. This was arranged by Stanley to discourage the company from selling off the detached lots and then abandoning the less accessible block. The sixth clause pledged the government to spend half the purchase money -- the improvement moiety -- in public works to make the company's lands more accessible and more attractive to emigrants. The company might advise, but could not dictate, the apportionment of this fund for such objects as "canals, bridges, high roads, market-houses, court-houses,

school-houses, the erection of churches and parsonage houses, [and] the clearing and improvement of glebe lands."

To retain the application of the improvement moiety seemed a sensible precaution, but it was unworkable. The Government knew nothing of the unsurveyed block except by occasional surveys by the department of the Surveyor-General, Joseph Bouchette; and although Bouchette was a fine old gentleman, a polished courtier and the father of modern economic geography in Canada, the early work of his department was as badly deranged as his personal finances.³⁴ The expenditure of £6,000 a year in the Eastern Townships would compel the Government to hire a full-time surveyor resident in the townships, would add to the work of Bouchette's department, and would probably require two or three superintending commissioners. Planning and administration might consume a quarter of the fund before a workman ever picked up his spade. On 6 August, 1834, Spring Rice agreed to reverse the roles of government and company in spending the improvement fund.³⁵ Governors from Aylmer to Durham all approved the company's plans and estimates virtually without scrutiny.³⁶ The government saved itself some trouble and expense, but the company became to all intents and purposes a department of public works for five townships, and earned by its establishment the enthusiastic support of the British settlers of the townships, and the denunciations of the majority in the House of Assembly.

iv

The early history of the BALC divides easily into three periods of which the second, from 1834 to 1838, encompassed the beginning of operations, the early promise of success, and the series of crippling injuries, only some of them self-inflicted, which brought the company on its knees to the Colonial Office at the end of 1837. The royal charter was granted early in 1834 and George Robinson steered through

Parliament the incorporating Act, which received the royal assent on 22 May.³⁷ The company was authorized to hold up to 3m acres in the townships or seigneuries of British North America, with an authorized capital of £300,000. The company had claimed £3 per share from each subscriber to the £50 shares, and the Act limited calls on the stock to £5 a share semi-annually. The full capital would therefore be paid up by May 1839, but not sooner unless a general meeting of shareholders authorized a special call. The shares of the company traded first at a premium of 2%, but gradually slumped over four years to a discount of nearly 50%.³⁸ But the proprietors continued to meet the calls of the directors and thereby staved off disaster for four years, while the company struggled to meet its annual obligation of £12,000 plus accumulating interest, simultaneously consolidating its holdings by purchases of private lots and Crown and clergy reserves. From the first the company struggled to maintain its double role as a political machine for stimulating British settlement in the townships, and a private corporation seeking both long-term and immediate benefits for its shareholders. Dealings with the Colonial Office, so important before 1834 and after 1838, were reduced in the interim to niggling disputes on minor expenses.³⁹

The London committee of the company projected operations from the beginning of 1834, and the commissioners -- Moffatt and McGill -- were instructed to pay particular attention to the improvement fund: "Upon the judicious and economical expenditure of this money the success of the Company mainly depends."⁴⁰ As soon as the charter arrived the commissioners bought land opposite Trois Rivières to build landing-stages and warehouses for the new town of Port St. Francis; and the company signalled its intention to concentrate its efforts around Sherbrooke, 103 miles by road from Montreal, by purchasing extensive holdings in the town from W.B. Felton and the former MPP for the County, C.F.H. Goodhue. By the

end of July the company had agents at Quebec, at Stanstead on the American frontier, and at Melbourne, a village at the northern limit of the company's tracts. The company also bought a woollen mill, grist-mill, carpenter's workshop and seven houses in Sherbrooke, where the confluence of the St. Francis and Magog Rivers offered ample water-power. Controversy touched these investments, for they seemed speculative, and one of the buildings housed the county's radical newspaper, whose proprietor refused to negotiate a lease on the company's terms and lost his premises just before the election campaign of 1834.⁴¹ These investments, with substantial purchases of uncleared and semi-cleared lands, did not put a serious dent into the company's finances, for at the annual meeting in March, 1835, Robinson was able to report that the BALC had £12,000 invested in American state securities, £11,000 in its London bank, and a further £2,000 in Canadian banks. Individual shareholders betrayed some apprehensions on political grounds, but the year's business ended with commissioners, directors, and shareholders in good spirits. The company had not yet sold any land.⁴²

Operations progressed in 1835. Surveys and soil tests were carried on,⁴³ with emphasis placed once again on improving access to the company's lands from the St. Lawrence. Port St. Francis offered the only deep-water landing on the south shore from Lévis to Sorel, and the company built there a permanent wharf 500 feet long, a storehouse, six emigrant houses, stables and carriage sheds. These improvements cost £4,240 currency. A few tons of merchandise had already been shipped to Sherbrooke by that route, and thrice-weekly stages ran to the same town. The Governor had approved expenditures from the improvement fund of £12,000 to build roads, including one cutting the distance to Sherbrooke by 14 miles from Port St. Francis, and another shearing 13 miles from the distance between Montreal and Sherbrooke. The LaPrairie-St. John's railroad (in which Peter McGill was also interested) was

also expected to enhance the value of the townships, though proprietors were not told it was chiefly important to the Richelieu Valley, where the company had very little land.⁴⁴ In 1836-37 operations were less ambitious. In May 1836 the company moved its Canadian headquarters to Sherbrooke with Arthur C. Webster as sub-commissioner for sales and labour contracting. For most of this year the company concentrated its efforts in Sherbrooke. In 1837 the stage service from Port St. Francis was doubled, and £1,000 for a road into the unsurveyed block was approved by the London Committee; but operation was already being pinched by an unfavourable cash flow.⁴⁵

There can be no doubt the BALC's investments were of considerable public importance and convenience, but the concentration of effort on Port St. Francis and the improvement of the route to Richmond, outside the company's tracts, continued to emphasize the lack of a suitable infrastructure for the ambitious scheme of peopling three inland counties. At the rate of £170 a mile the BALC could build only 35 miles of road a year from the improvement fund, and all other investments had to come from the capital and profits of the company itself. In its first five years of operation the company could expect £300,000 from its shareholders; in this same period it was obliged to pay the government £64,160. This would leave an average of £47,168 a year for private improvements, administrative costs, surveys not covered by the improvement fund, recruitment and assistance to emigrants, and further purchases to round out the company's holdings. On this basis the company was not under-capitalized, but if it wished to invest heavily in additional lands -- which it did -- it was necessary to stimulate a steady flow of cash-paying settlers into its lands.⁴⁶

It was in this crucial aspect of the company's operations, its raison d'être after all, that its failure was most stark. This must be viewed against the background of immigration

patterns before and after the establishment of the company. From 1828-32 the average annual arrivals at the port of Quebec reached 31,541; this average fell to 22,444 in 1833-37. In 1835 the Quebec Gazette reported several hundred settlers with considerable capital had gone into the Eastern Townships, but 1836 and 1837 were the critical years for the company. For the former year the superintendent of emigration at Quebec reported 6,000 new settlers had gone to the townships, a surprisingly disproportionate 62% of the figure for Lower Canada generally; in 1837 the figure had slipped back to 1,500 (37%). In 1838 immigration virtually ceased.⁴⁷ The political disorders which had been mounting since 1834 took their toll on public opinion in Britain. In Sussex, Colonel Wyndham's emigration organizer reported only one family offered to go to Canada; in far-off Sutherland, the Duke of Sutherland's factor reported a "dread of Canada" and an interest in Australia; and a Scottish settler in the townships wrote to his brother in Bute the sort of letter that must have reached hundreds of modest homes throughout the British Isles:

I observe that from the circumstances mentioned in your letter that it is uncertain whither you will be able to accomplish your design of leaving the Country... next Spring. I am extreamly Sory to inform you that even if there was no Obsticle in the way there. the lamentable state of Canadas (I mean the lower provence) is at presant in a horrible condition indeed. so much so that it would be hazardous for any uropian to land in it. The Country are now and has been for some two months past in a Compleat State of Rebellion a great dale of Blood has been already spelled and very many lives lost.⁴⁸

Thus the risings along the Richelieu completed the work of discouragement the patriotes had begun with newspaper attacks and the handbills they circulated to emigrants arriving at

Quebec, denouncing the BALC's titles as invalid. The company was never given a chance to succeed. In February, 1838, the BALC admitted the appalling fact that it had sold only £4,500 worth of land -- perhaps 13,000 acres -- realizing only £1,650 to date.⁴⁹

Those 6,000 immigrants in 1836 were anything but an asset to the company. They were paupers, recruited chiefly from Norfolk, Suffolk and Hampshire by a team of agents co-ordinated at considerable expense by the London committee. Others came from the United States, Upper Canada, and Cape Breton.⁵⁰ The BALC made energetic efforts early in 1836 to interest Wyndham in its operations, but his travelling agent, Dr. Brydone, had already toured the tract at the suggestion of Peter McGill and reported critically:

I think favourably of these townships, as combining a certain proportion of the useful with the ornamental, to gentlemen already possessed of a Moderate independence, I do not consider them of half the agricultural value of the Upper Province,... to the poor man -- much inferior in climate and not superior in salubrity to the tract I have selected.

And yet it was to the very poor that the British agents unwisely turned. When Webster proposed that these settlers should receive assistance, the London committee told him to avoid giving them anything more than winter tools, and to try to recover the value of those at the end of the season. Early in 1837 the directors advised Webster they would not employ "any Gentlemen as travelling Agent this season" and had "discouraged all applicants who appear wholly destitute of the means of providing for themselves." The Gosford commission had praised the BALC as a device for offering emigrants "facilities or advantages that it would not be prudent or proper for the Government to offer", such as 50-acre farms and flexible credit. But was it prudent for the company either?

By 1838 it was reporting a loss of £17,300 on the emigration of 1836.⁵¹

Speculation was the other side of the company's operations. E.G. Stanley had feared the company might sell off the surveyed lots at a profit and then decamp, but the company's strategy was just the reverse. Instructions to McGill and Moffatt early in 1834 advised the commissioners to concentrate on selling the lands in the main block, leaving the value of more accessible tracts to appreciate in the company's hands.⁵² This policy was bound to stretch the resources of the company, yet it seems to have been persisted in for some years, as the decision in 1837 to press ahead with the road from Victoria to Otter Brook showed. In this policy the company was rejecting the experience of the Canada Company in Upper Canada and mimicking the government's policy of establishing reserves in 1791, speculating in its own lands with one hand while trying to enhance their value with the other.⁵³ Initial prices to settlers were to be kept low, not merely "to induce settlement and give a favorable impression of the company's liberality," but also to keep "down the price of adjoining lands" to facilitate further purchases by the company. Lands might therefore be sold for as little as 5s. an acre (though by 1838 wild land was advertised for 6s 3d to 10s 5d an acre) and the commissioners were advised to give better credit terms than those offered by the Canada Company -- a foretaste of the BALC's more streamlined operations in the next decade, when farms were sold on 14 years credit, with only interest payable during the first decade.⁵⁴ But in purchasing lands the Commissioners in Montreal seem to have been left to their own discretion, for Samuel Gerrard reported to Ellice early in 1835 that there would be little prospect of selling Beauharnois; McGill was choosing remote lands which could be purchased cheap. The company's report to shareholders at the end of March 1835, noted that 32,000 acres had been bought from private individuals, and had been paid for, while another 13,600 were under option: these figures included the

townsites and adjacent lands bought from Felton and Goodhue at Sherbrooke. The Company had also bought 59,200 acres of clergy reserves, paying 25% down. This brought its holdings, including lands under option, to 952,461 acres, an increase of 12.4% in a year.⁵⁵

The second annual report a year later reported holdings of 1,094,272 acres, an increase of 14.8% over March 1835, and of 29.09% over the original purchase. The total cost of all the company's lands had reached £170,321, or about £50,000 more than the original debt to the government. The additional $\frac{1}{4}$ m acres must accordingly have cost slightly over 4s an acres. The largest single purchase from an individual was apparently 55,486 acres of quondam Crown and clergy reserves in Drummond, bought by the former MPP T.H. Moore at the upset price after an uncontested auction. These reserves were in four townships astride the St. Francis River, not far from the seigneurial county of Yamaska. Of these four only Grantham, the site of Drummondville, had more than 1,000 settlers; Wickham and Westover had fewer than 500 each, and no serious effort had been made to settle Simpson at all. Although Drummond was outside the three counties of the company's initial purchase, it lay across its major road works which would increase the value of the Drummond lands; the whole 55,000 acres were bought from Moore at an unstated advance on the original purchase price, which was probably around £8,000. The BALC also bought Crown and clergy reserves direct from the government, up to the end of June 1836, in the following counties:⁵⁶

County	Purchases 1834-36	Original Purchase 1833
Drummond	8,381	--
Shefford	26,305	48,047
Stanstead	17,959	36,362
Sherbrooke	48,135	166,927 surveyed 596,325 unsurveyed
	100,780	847,661
Total public lands bought December 1833-30 June 1836		
948,441 acres.		

But the failure of sales and the increasing constriction of the London money market in 1836 cut off speculations. Hitherto the commissioners in the colony were authorized to pledge up to £15,000 every six months, preferably on long credit. On 21 December, 1836, the London committee warned McGill and Moffatt that they had actually spent, in Canada, £56,877 to the end of October, disturbingly close to the £60,000 that could be called from stockholders. The commissioners were warned not to spend any remaining balance from the last allotment for speculation. The company reported "great alarm" at its financial position in April 1837, and tried to suspend all expenditures except its debt to the Government. The 1.2m acres advertised for sale by the company in May, 1836, represented the greatest extent of its holdings at any time in its half-century of existence.⁵⁷

Within two years of receiving its charter, the BALC owned or held options on 41.6% more land than the original offer from the government, but less than half the permissible maximum. The deliberate policy of the London office had been to develop the least desirable tracts first. It also speculated in cheaper private holdings, though not to any appreciable extent. The quarter of a million acres bought privately seem substantial enough, but this should be viewed in comparison with the equal quantity of Crown lands remaining in the single adjacent county

of Mégantic. The company's total holding was about equal to the scattered holdings of ninety individuals, estates and companies in the Lower Canada townships, reported in 1838 after the BALC had completed its major private acquisitions.⁵⁸ When the company failed to meet its instalment due on 20 March 1838, aggressive speculation had undoubtedly contributed to its disorders. Nonetheless antagonists were utterly mistaken to fear that it would become a monopolist, and prevent the investment of capital from other sources in the townships. Purchases in Sherbrooke gave the BALC a monopoly in the most eligible town-site, but in this sphere it merely became one large holder, under shareholders' pressure to develop and sell, in place of two holders under no such pressure. It is extremely difficult to assess what would have been a good or a safe investment for the BALC to make in wild lands, because the mere fact of its existence affected land values, while Felton's practice of bringing Crown lands onto the market in larger quantities than the market could absorb meant that the minimum upset price became a maximum, to be paid by speculators, not settlers. It may be further argued in defence of the company's speculations that they were completed before the really disastrous consequences of 1836 were known. The additions the BALC made to its holdings in 1834-36 gave a dubious colour to its principles and management when difficulties pressed most heavily in 1838-41, but the worst that can be alleged against it was that it was too eager to protect itself from private rivals, and tended to underestimate the grave effects that would accrue from its geographical disabilities and the political convulsions to which its existence was intimately connected.

v

The company signalled its condition late in 1837 by asking for permission to suspend payments to the government for five years. Without a special call on the shareholders,

which directors shrank from and might have failed to receive, necessary expenditures would be postponed. Once again Spring Rice proved obliging -- just before the 1838 instalment fell due, Treasury approved a suspension of payments for a year. But of all the interests that had suffered from the rebellion "that of Emigration and the Company's enterprize may be the latest to recover", and the company began to lobby for a renegotiation. The company tried several different tacks in seeking better terms, usually involving manipulation of the original terms of the improvement fund. One proposal was to have the cost of internal surveys refunded to the company; another sought to let the company count as part of the improvement moiety the unrecoverable half -- £8899 -- of the cost of the 1836 emigration. This, too, was refused, as were the proposals to abolish interest charges, or to double the improvement fund, ending direct cash payments. The Colonial Office did not reject outright a proposal to divert the £6,000 annual payments to assisting emigration, but referred it to Durham with a request for a general survey of the company's affairs. Durham doubted the BALC's sincerity and set in motion the series of proposals which culminated in the company's surrendering its option on all but a fraction of the St. Francis block in exchange for a discharge from its debt to Government.⁵⁹

Durham's Report in 1839 was surprisingly mute on the question of the British American Land Company; so was the subsidiary report from Charles Buller. The evidence in Buller's report contained virtually nothing on the company's affairs except some mildly derogatory remarks from the new Commissioner of Crown Lands, John Davidson, who, with Bouchette, seems to have inspired the suspicion of the company which Durham expressed in a major despatch on the BALC at the end of July, 1838. Durham began by asserting that the government must be wary of making special terms with one debtor on grounds of hardship, or with one group of capitalists on grounds of

obstruction by the Assembly, because these criteria could be used by almost every landowner or investor to cause endless claims against the government. Durham also blamed the BALC for some of the opposition, because it had named two prominent Legislative Councillors as its first resident commissioners. But more important, Durham doubted the seriousness of the Company's financial position: he had just received a petition for ¼m acres from the projected Mégantic Land Company asking similar terms to those received by the BALC. Durham said that if "the disposal of Crown Lands in this Province be placed on an uniform system with a view to emigration" the company's profits would be "very high"; the BALC's problems were mainly short-term, cash-flow difficulties and the application for special consideration was unwarranted. This analysis begged several questions, the main one being the government's ability to reorganize the land system on the basis which Durham was to propose in his Report in 1839, not dissimilar to that proposed by Felton in 1832 and revived by the BALC, Canada Company, and other large landholders in 1841. But the British government was reluctant to apply the whole of the land revenues to encouraging emigration to the colony, and killed the proposal effectively by deciding to surrender control of the Crown lands and revenues to the Legislature of the reunited province. And the BALC's fate was virtually settled before this, because Durham's despatch contained the seeds of a solution to its problems. As a test of its sincerity, he suggested, the government should offer to buy back the whole 847,661 acres at a fair valuation and allowance for improvements.⁶⁰

Treasury reacted by advising the Colonial Office it would not sanction an agreement which actually involved paying money to the BALC, but might treat for the lands still unpaid for; this proposal was made to the company on 17 October. The company responded to these feelers cautiously, still trying to get better terms within the broad outlines of the original

deal. The directors proposed, for instance, that Government should allow them £6 a head for settling pauper emigrants on their lands. They also sent a hastily-concocted proposal that the Government might buy up all their holdings for £207,890, a suggestion which the new Governor-General, Thomson, rejected contemptuously. Thomson, to whom the Colonial Office transferred all responsibility for negotiations in June, 1840, took the blackest possible view of the company's activities, pointing to their purchase of £25,000 worth of reserves, and investment of £64,000 in Sherbrooke and Port St. Francis, as evidence that they were speculators, not serious developers.⁶¹

Thomson's analysis was the most sweeping denunciation of the company's motives and management to date, and it is unfortunate there was no less partial report. The colonial bureaucracy seems to have been jealous and critical of the quasi-public nature of the company's operations -- Felton in particular was considered by Gould to be hostile, and Davidson showed his bias to Buller's sub-commission: Bouchette was also highly critical of the scale and expense of the company's surveys. Amongst governors in the thirties, Aylmer wavered between support for the BALC and a preference for having the government go into land development on its own account; Gosford was friendly but vague; Durham was sceptical and Colborne non-committal. But Thomson fell into a class by himself: he was not fundamentally a dishonest man, but his prejudices were colourful and vigorously-defined, and it is debatable how impartial he could be towards a company whose leading figures included Russell Ellice and Nathaniel Gould! Whether partial or not, Thomson's judgement was that the government should offer the company no better terms than resumption of the original tract and refund of £18,000. The improvements, he said, were a liability and should not be paid for. If the company refused this stringent offer, it should be dealt with like any delinquent debtor. After further negotiations,

Attorney-General Ogden called the company before Judge Fletcher at Sherbrooke to answer a charge of breach of contract.⁶²

Eventually the Governor's position softened, ostensibly because examination of the townships indicated that the unsurveyed block, sold at 3s an acre, was actually more valuable than the accessible lots sold more dearly. Negotiations at Kingston involving Fraser, Sydenham and Robert Gillespie from London resulted in a new agreement, signed on 5 July 1841, to wind up the intolerable situation of the company's being three years behind in its payments, while the wilderness reclaimed the improvements.⁶³ The new agreement cut through the contempt of Thomson and the extravagant pretensions of the BALC in four short paragraphs. The second article extinguished the government's claim to all further payments from the company. Thus the company's eventual holdings were bought for £37,200, paid in 1835-37. Those holdings were defined in the third clause: it affected only the 847,661 acres sold by Stanley: of these, the ¼m acres of Crown reserves and detached lots remained in the company's possession. Of nearly .6m acres in the St. Francis block of Sherbrooke County, the company retained only 85,088 acres east of Sherbrooke, in three townships where overgrown roads to decaying villages named Gould and Robinson attested to the failure of operations in 1836. If the value of these "improvements" is left out of account, as Durham and Thomson said it must be, the Company bought 336,424 acres for about 2s 2½d an acre.

vi

The company's ambitious schemes, by miscalculation, not corruption, were doomed from the beginning of 1834. It should be emphasized that under the revised agreement of 1841 the BALC did a modest but profitable business for another forty years, set on the road to solvency by the efforts of John

Galt's son, Alexander. But Galt's success depended on reversing some of the early blunders of the directors in London. The first flaw was the position of the company's lands themselves. Early proposals to operate in Nicolet, Mégantic, Drummond and Mississquoi as well as Sherbrooke, Stanstead and Shefford were more realistic than the eventual decision to concentrate the company's holdings in the three last-named and least accessible counties. The directors' decision to settle the St. Francis block before the scattered lots compounded the original folly. These decisions compelled the unproductive expenditure on Port St. Francis and the Drummond County roads. Emphasis on the St. Francis townships suited Lord Aylmer's preference to have the American frontier settled thickly, but on any other rational ground it was wrong: if the intention was to forestall settlers from reaching the lands above Montreal, Drummond and Mégantic were the more accessible places and Quebec the proper port of entry. Sherbrooke's natural metropolis was Montreal, but even from there it was not very accessible. When the company advertised its lands in 1859, it emphasized the sharp rise of land prices in Upper Canada, the existence of a stable, semi-autonomous government, and quick railroad communications to Montreal and Quebec. None of these facilities existed in 1834, and their absence made the whole existence of a company to develop those lands, at that time, questionable. The public did not lose a great deal by the establishment of the company and its early reverses. Indeed, from 1831 to 1844 the company's districts increased in population rather faster than the rest of the province, a short-term success within the long-term failure to increase the British element in Lower Canada by stimulating settlement of the townships.⁶⁴ At least some of this disproportionate increase was probably due to stimulation by the British American Land Company. But the parties who really suffered from fundamental errors and subsequent maladministration were the company's ordinary shareholders.

They were taught, in miniature, the lessons the government was also learning about the difficulties of letting politics and speculation mingle with a sincere ambition to increase the productive population of a colonial wilderness.

Chapter 8 The Constitutional Associations of Lower Canada, 1834-1838

i

Montreal's Windmill Point on a freezing day in January, 1836, seems at first glance an unlikely time and place for a bigger political demonstration than the city had ever witnessed. No by-election was in sight; politicians were at Quebec for the legislative session. Yet a cheerful crowd of three thousand or more turned out to meet a four-wheeled covered carriage bringing a jaunty young lawyer back from London by way of New York. The hero of the moment was William Walker, short, nervous, exciteable, lamed by duelling wounds and often not perfectly sober. An unlikely moment, and an unlikely hero, but the crowd who cheered Walker's arrival had almost elected him to the provincial parliament nine months earlier, had sent him to London to express their fears and their grievances to the Prime Minister himself, and now gathered in the winter air, summoned by handbills and following the thumping of a band and the waving of banners, to demonstrate that British Montrealers of all classes and origins were united in opposition to the Assembly.¹

The welcoming of William Walker was not the only or even the biggest display of Anglo-Canadian solidarity in Lower Canada between the election of 1834 and the rebellion of 1837. Massive assemblies met regularly after the autumn of 1834 at Montreal, at Quebec, and on an appropriately smaller scale in almost every village and market town in Lower Canada. These wholly peaceful demonstrations culminated in 1837, in the Great Loyal Meetings of the province's two cities, meetings which each mustered seven thousand participants and observers, standing patiently under the August sun as orators exhorted

them in English and in French to defend their rights from whatever direction they might be threatened.² It is notoriously difficult to explain the behaviour of crowds, but it is a useful introduction to the history of the constitutional associations, which organized many of the biggest meetings, to emphasize that the constitutionalists were not the Tories of 1827 wearing new hats, nor even a handful of ex-reformers turned timid in the face of burgeoning popular power. The CAs, by their existence and by their vitality, represented at best the growth of a local pride and spirit for improvement in the colony's English-speaking population, and at worst, an ugly acceptance of Papineau's axiom that the Canadien and Anglo-American cultures could not simultaneously thrive in Lower Canada. But the constitutionalists also showed the multiplicity of aims and ideals which would always make local opinion an unreliable instrument in the hands of minorities which sought to erase the French culture from British North America.

ii

The constitutional associations founded in 1834-35 (there were at least nineteen of them across Lower Canada)³ represented not so much a coherent movement for change as a disjointed appeal for normality. Normality to them was not a static ideal, but an adherence to the social and political vision of the Select Committee report of 1828, which with all its inconsistencies had still offered orderly change in a cordial atmosphere. Then the republicanism of Bourdages, the anticlericalism of Papineau, the vicious rhetoric Rodier directed against the Irish, jolted the sense of well-being of the colony's English-speaking communities. And through it all Britain, the inexperienced Whigs in power, sat quietly by and observed, trying ineffectually to cajole

the Canadiens back into the spirit of 1828, while giving British colonists ample cause to fear that conciliatory manoeuvre was a prelude to cowardly surrender. By the end of 1834, there was hardly a single friend to the British colonists on the majority side of the Assembly. The anti-patriote reaction in the colony took the form of huge petitions to the King and Parliament in the spring of 1834, election campaigns of unprecedented vigour in the autumn of the same year, and the creation of constitutional associations to fight the patriotes' propaganda where-ever it appeared, especially in the townships, among the working classes of British origin in Quebec and Montreal, and in London itself.⁴

The constitutionalists were a new coalition of groups which had been on the political scene for some years. In the townships, to be sure, they were often just the voices of infant settlements discovering both the will and the ability to speak collectively on political subjects: to protest, for instance, against being refused a school in Potton township "as a political cow-hiding for being Tories."⁵ In American-settled townships people established CAs to justify rejection of the liberal autonomists with whom, until 1834, they had largely been in harmony. The Mechanics' Constitutional Union of Quebec also showed the roused self-awareness of a growing community, and everywhere the CAs allowed men who had opposed Dalhousie to explain their support for Aylmer. But in the cities, the constitutional movement was at first composed and led by men of experience in colonial affairs, men who had been part of an influential third force in politics during the 1820s, yet whose distinctive viewpoint, in the absence of organized parties, had usually been obscured behind votes for one faction or the other.

For there was until 1834 what might be termed a third option in Lower Canada politics. The first option was to erode the symptoms of French-Canadian nationality and to

strengthen economic and commercial relations with Britain and the north-western United States. The second option, that of the separatist Canadiens, was to subordinate all economic policy to the entrenchment of power in French-Canadian hands.⁶ There was a third force in the colony, both British and Canadien, which valued commercial expansion and dependance on Britain, saw immigration as part of the colony's life-blood, yet valued no less the distinctive aspects of French-Canadian society -- the religious structure which promoted stability, the civil law with the family as its cornerstone, the habitants' genial civility which was thought of as distinctly French. An understanding of the third force is necessary to help dispel the impression that Lower Canada was made up of predictably-composed groups with a few renegades and stragglers. For instance, Andrew Stuart, generally counted by historians among the "tories", penned the era's best defence of the seigneurial system and enlivened the legislative session of 1834 with a rousing attack on Jonathan Sewell.⁷ The Protestants of Montreal twice in 1836-37 made broadly-based demonstrations in favour of good relations with the Catholic church, and the Montreal Committee of Trade chose a Canadien as its head throughout the rebellion years.⁸ Granted, the tremors of November 1837 and the profound shock of the second rebellion in 1838 herded colonial society into two hostile camps of British and French; but the frightening, hopeless dichotomy observed by Durham did not wholly extinguish those who sought to build bridges, not ramparts; it pruned but did not uproot the third option, as the flourishing of English-speaking reform sentiment after 1841 made clear.

The achievements of the moderate group are almost all bound up intimately with the name of John Neilson, editor of the Quebec Gazette during much of the period, and a member of the Assembly from 1818-34. Neilson was driven by his twin

beliefs in British expansion and Canadien social conservatism. His affection for Scottish society was based on readings and childhood memories, reinforced by infrequent visits to his Ayrshire home after 1815; his love of French Canada was rooted in happy experiences as an incomer, and as husband (after 1797) of a well-to-do Canadienne. His interests and sentiments were partly those of the English-speaking commercial class, and partly those of the seigneurial class; and his career was stamped by his steadfast refusal to admit that there were contradictions in the two rôles.

Neilson's social vision may stand with some changes as typical of the ideas of the third force in provincial politics. The group supported the status and moral authority of the clergy; it was anxious to extend education through the seigneuries, where it appeared most defective. The third force promoted the agricultural associations which tried disseminating up-to-date knowledge to revitalize the flagging farm economy. It campaigned vigorously against the old narrow system of patronage, but it took for granted the continuance of British sovereignty, restrained in the manner proposed by the Select Committee of 1828. It was fiercely opposed to interference in the civil law of the habitants on the mere grounds that those laws were unfamiliar to British colonists. The third force, far from endorsing the view that immigration was the enemy of survivance, felt it would not threaten the cultural integrity of either immigrants or original inhabitants. Neilson's stubborn rejection of every measure based on the existence of cultural distinctions was characteristic of his whole career. He epitomized, and for a time after 1831 he led, the movement of Lower Canadians who would neither kow-tow to the Chateau nor clamour for the panaceas glibly demanded by the patriotes.⁹

iii

Four things changed in Lower Canada between the disaster of Dalhousie's last election and the unity shown by all classes of British colonists at the end of 1834. First, the implementation of many recommendations of the Select Committee of 1828, and the passage of Parliamentary Reform in Britain itself meant that British liberals in the colony felt more warmly towards Britain; as Andrew Stuart said in 1835,

It was only when the grey hairs came on his head that he found out that the moral energies of Britain were tenfold more powerful than her army and navy.... Britain was an instrument in the hand of Providence for the good conversation and civilization of the world.¹⁰

Second, the patriotes had become much more rancorous towards British colonists; the campaign to make the Legislative Council elective occupied much of the attention of ministers in England, but colonists were more apt to look at such unpleasant propaganda as the popular editor Ludger Duvernay's poem for a national feast-day, which included the lines,

Peut-être un jour, notre habitant paisible,

Se lassera du pesant joug d'un roi,

Il s'écria,.... mais de sa voix terrible:

Sortez d'ici;... cette terre est à moi.¹¹

Third, the attitude of the Colonial Office gradually hardened against the extreme demands of the patriotes, and the despatches of Lord Stanley in particular convinced the more conservative British colonists that Britain could once again become a salutary force for establishing prosperity and harmony. And fourth, the Canadas, closely linked by geography and trade, were rapidly filling with British-born immigrants. Soon the Canadiens might simply be outvoted or, better still, smoothly assimilated by increased daily contact between the races and the multiplication of opportunities that economic

growth seemed to proffer. British colonists retained much of the "garrison mentality" that had made them truculent and wary since the Napoleonic era,¹² but now their feelings became more complex, for they were a beset garrison receiving strong reinforcements, a fact which did not escape Papineau, who redoubled his efforts to make them feel insecure.

The shift in British colonists' feelings was not a sign of general social improvement. Neilson might prophesy in his columns that Papineau's excesses would backfire and "the orderly and loyal character of the people will acquire new lustre;" but Aylmer could see more clearly, and reported to Stanley at the end of 1833, "In fact that change in the sentiments of Public Men which has been brought about by the violent & unconstitutional Proceedings of the House of Assembly, has not hitherto... extended to the great mass of the Electors".¹³ The test came on the Ninety-two Resolutions, the grand remonstrance of Papineau's followers against the Legislative Council, the executive, and the Colonial Office under Lord Stanley. This calendar of grievances came forth with a challenge to the British government: the public salaries, now sixteen months in arrears by failure of supply bills, would never be paid until Britain overturned the constitution by making the Legislative Council elective. Yet resistance to Papineau was mounting. In a long and thoughtful leading article on political parties at the start of 1833, Neilson cast off his professional optimism and warned that "tyranny, oppression, and rapine" would follow the complete domination of either party. A month later, a crowd of 1500 turned out in Montreal to approve a loyal address to the Crown. Aylmer was embarrassed by the mounting anti-French sentiment among the English and American settlers; "I regret these meetings because they tend to foster & keep alive national prejudices." Then came the Ninety-two Resolutions, opposed by 24 members in the Assembly

of 88 -- seven Canadiens and all but seven of the members of British origin.¹⁴

The upsurge of partisanship took an unexpected turn at a public meeting in the township of Mégantic. This meeting was inspired by Robert Layfield, a local figure with a grievance against the bureaucracy. (He considered Andrew Cochran had cheated him in a land deal.)¹⁵ Layfield's meeting criticized the bureaucracy, but unexpectedly fell far short of endorsing the Assembly's resolutions. Loyal meetings were held at Sherbrooke and Stanstead in the townships, and in Trois Rivières. The high point of the spring protest was one huge assemblage at Montreal, the famous meeting at Tattersall's hotel which culminated in a petition with 12,000 signatures.¹⁶ Papineau fought back quietly perfecting through corresponding committees the electoral machinery for the general election which must be held before the end of 1834.

This election outstripped even that of 1827 for violence. Papineau had this time little difficulty in selecting his targets: men who had not gone with him to the full extent of the Ninety-two Resolutions must be rejected as tories. Neilson turned down a safe retreat with promises of clerical and seigneurial support in the county of Lotbinière, to stand his ground and be swamped in less than three days polling in Quebec County.¹⁷ In the town of Quebec four incumbents were available for re-election. George Vanfelson of Lower Town had voted for the Resolutions and swept back easily against the prominent merchant but political novice George Pemberton. Thomas A. Young's record of steady hostility to the bureaucracy and the Bank of Montreal was wiped clean by his single vote against the Resolutions. Up the hill, John Duval looked around and dropped out early, campaigning instead for the other incumbent, Andrew Stuart. Here there was a tremendous battle to wrest the lead from the "resolutionists", but Stuart narrowly lost and the six seats of Quebec town and county returned no members of British origin. In the surrounding countryside

things went hardly better, though a Quebec businessman and landowner, J.J.G. Clapham slipped past Layfield in Mégantic.¹⁸ The political complexion of the townships changed very little; at Sorel, James Stuart's old seat, the son of a local seigneur stood as a constitutionalist and was defeated in an exciting campaign with a murder trial as its sequel.¹⁹ One of the wildest campaigns was in Two Mountains, part of the turbulent old County of York. The poll opened first in the Scottish settlement of St. Andrew's by the Ottawa River, then moved to St. Eustache with a 300-vote majority for the constitutionalists Brown and Globensky recorded on the poll-books. But in the two days' voting at St. Eustache the patriotes took every vote, while frustrated supporters of Brown and Globensky, up to 200 in number, were forcibly kept from the hustings. On the second night the constitutional candidates' house was attacked and burned; on the third day an angry crowd of about 400 men from St. Andrew's was driven back by a hail of stones. Rumours that the patriotes were arming themselves induced Brown and Globensky to withdraw while they were still ahead. Their opponents were promptly declared elected.²⁰

In the West Ward of Montreal there was a contest to match even the close-run fight in Quebec's Upper Town. (The East Ward, by contrast, saw Leslie an easy winner over a young Irishman, Sydney Bellingham; in Montreal County, Papineau dislodged a compliant incumbent to ensure his own return for at least one riding.) The West Ward was a showpiece for both parties; immigration had made it a racially balanced riding where Papineau and Robert Nelson, member from 1827-32, could test the new-found unity of British and Irish voters. But the constitutionalists had changed their tactics. Gone were the patrician candidates who could dismiss defeat with

a genteel shrug and return to their business desks. The highest of this group were already in the Legislative Council; the lesser ones stepped aside to let the constitutional party appeal to Demos. Samuel Gerrard remarked guardedly to Ellice on the two candidates, William Walker and John Donnellan, that "the better class of the society is far from being partial to either of these two, and will only vote for them to try to throw out Papineault, and to prevent a division of the votes."²¹ Walker was a political novice; Donnellan was of obscure but evidently humble origins.²²

The voting proceeded intermittently from 29 October to 17 November. From the earliest days polling was close; Walker and Donnellan led at times. The near-unanimity of English-speaking voters was no doubt largely made possible by the fact Walker stood well over to the reforming side of his "party" -- he advocated complete provincial control of revenues except for a small civil list; and he opposed the British American Land Company as a monopoly. He adopted the "spirit and sentiments of the numerous petitioners of 1827" and, distinguishing between the political evils the patriotes portrayed and the social disparities he himself perceived, called for "a social reform, which can only be accomplished by an oblivion of past differences; and a relinquishment, on either side, of dubious pretensions.... Let us endeavour to constitute ourselves one people." This goal could not be won, he insisted, by the efforts of a party resisting every innovative idea from Europe except the one reform which would enlarge its own power, election of the upper house.²³

Papineau fought back with every weapon he possessed. His arsenal included both a mob and the returning officer, Dr. Lusignan, who referred disputed points to the lawyer he trusted best, Papineau himself. But this corruption at the heart of the polling process was soon eclipsed. On Friday, 1 November rioting began. On Monday the tally system was

resorted to; Lusignan retreated into a house and took votes in lots of five alternately at different windows. After more riots Lusignan, without the required consent from Walker and Donnellan, suspended the polls from day to day from 14 to 18 November. The climax came on a Sunday night, when a gang of roughs hired by the town council to keep order sacked several buildings including English's tavern, the constitutional candidates' headquarters. On the following morning voters resorting to the polls found nothing but a final ignominious proclamation from Lusignan, professing to find his life in danger and refusing to take any more votes. The proclamation declared, on the basis of fragile majorities from the hastily-terminated voting, the election of "Citizen Papineau" and "Citizen Nelson".²⁴

The constitutionalists' chagrin at failing to rid the ward of Papineau was matched by rage at the way his victory was stolen; at Quebec, the British felt betrayed by their total exclusion from the representation, but exhilarated at how close they had come to victory in a struggle decided on origin. And in each city the surge of excitement of the British inhabitants could not be stemmed by defeat. Three simultaneous public dinners for Neilson, Stuart, Pemberton and Young turned into celebrations with demands for a constitutional association to ensure that the united spirit of the electoral campaign should not be dissipated. At Montreal, a meeting to consider the watchmen's role in breaking up English's tavern turned into a second enormous meeting at Tattersall's. "This election" cried James Hastings Kerr on the eve of Stuart's defeat, "will be an era in the history of the Province, for from this day forward the British are united and determined to stand their ground, and resist the attempts of the other party to force us from the Province." These meetings at Quebec's Albion Hotel on 17 November and at Tattersall's in Montreal three days later marked the birth of the constitutional movement and the flourishing of an opposition to Papineau based

on his own tactics of appealing to racial origin and making spirited declamations to the British Parliament and public.²⁵

iv

The united spirit of British colonists derived from the growing importance of their communities, but it would be a mistake to suppose it was rooted in arrogance. No less important was fear. While the Minerve hysterically inquired how soon the Colonial Office would revive in Lower Canada the tragic policy of deporting the Acadians in 1755, the British inhabitants were as apprehensive of the results of a complete victory for Papineau. "At all events" said a Scottish immigrant, "as we have made this our home, we will resist all attempts to drive us from it."²⁶ The Canadiens, feeling the constriction of declining agriculture, shaky international commerce and a changing cultural demography, translated their own frustrations into rhetoric designed to ensure that the British colonists felt the same apprehensions even more acutely.

The venom of patriote propaganda has been too often disregarded in the explanation of how Lower Canada slipped into political turmoil; and yet (leaving entirely out of consideration the question of how far that venom was provoked) it was probably the largest single factor in pressing the British colonists into a single political movement. Until 1834 the anti-French propaganda of the English hardly ever went beyond saying that the French would never prosper while they resisted change and harassed the imperial power; the patriotes on the other hand systematically spread the view that the British were a bane on the colony and oppressed its original inhabitants, and that they would become worse as they became more numerous. Robert Nelson's remark that the Irish were an insignificant minority like "Germans and Niggers" had an echo in Judge J-B Rolland's declaration that "He would not subscribe for

a Church for Irishmen, but he had subscribed for one for the blacks."²⁷ Papineau continued to invoke the name of O'Connell, but O'Connell's countrymen in the colony counted themselves among the allies the Speaker had betrayed.

The apprehensions of British colonists were sharpened by their perception of the patriotes' organization. On the one hand was the staunch unity of the Canadiens, not as a republican party but as a nationality. A strong suspicion among the traditional élites that Papineau was over-reaching himself failed to translate itself into an electoral force against him. Lusingan's subservience to Papineau convinced many that the rights of the local minority were held at the whim of a party. If this was frightening, it was also infuriating, for Papineau appeared to be the keystone of the whole patriote structure. His most able lieutenants were expendable; any who showed undue interest in office were cut adrift, and the sharp division of 1834 cost the Assembly almost the whole of its shadow civil service, the important chairmen of standing committees. A majority of these opposed the Resolutions and were defeated at the polls. James Leslie and B.C.A. Gagy of Sherbrooke were the only committee chairmen of stature to survive the elections. When it was proposed to send Papineau to London in 1835, the leading radical in St. Charles County said he would rather have Dalhousie back than lose Papineau for a single session. "D'ailleurs parmi les patriotes, un grand nombre n'est-il pas retenu par le grand nom, les grands talens, l'immense influence de M.P." and even the constitutionalist Gagy might become speaker in the confusion of Papineau's absence!²⁸ Papineau's durability made men despair of ever returning to politics based on local issues in place of the politics of races and personalities and of power pursued for its own sake.

Hand-in-hand with fear went a nagging sense of the ingratitude of the Canadiens. This harkened back to the Constitution of 1791 and the way it had been used to perpetuate

the civil law and land tenure of the pre-conquest era. The Canadiens had been given power to ensure that social change would be smooth and equitable, but not to smother change altogether. The genius of British constitutional liberty had been perverted to preserve the social rigidity of the old régime. The most startling aspect of the Canadiens' ingratitude, British colonists believed, was their blindness to the sources of colonial prosperity, especially in the towns. "If the rule were adopted of refusing them employ, and encouraging the emigrant, ten years would drive them from their homes, and replace them by the English." A "Scotch Catholic" wrote to the Montreal Courier commenting on the prejudice of two of his Canadien friends, who professed to believe that the "Foreigners ... would do away with the French laws and customs, and crush and treat as slaves the French Canadian part of the population" -- yet one of these held a government job at £300 a year, and the other earned nearly treble that sum in dealing with British-born merchants.²⁹ At the founding meeting of Quebec's constitutional association of mechanics the chairman, a shipbuilder, claimed to hire more men in a season than Papineau and all his followers combined. Most shipbuilders could afford to "strike" for a season, but "what would the poorer class of Canadians do?" To this a voice called out, "They would have to turn members of Parliament."³⁰

There was a further line of economic argument, more finely honed at Montreal, which saw ingratitude and impracticable pride in the whole legal system of the colony. Commerce might, in some branches and for certain periods, seem relatively secure, but businessmen are notorious for seldom feeling the security which inspection of their balance sheets might inspire in the uninitiated.³¹ What the Montreal merchants felt most acutely was the lack of facilities for investing their profits in real estate. But the heavy

seigneurial dues payable when land changed hands, the lack of register offices for titles and mortgages, and the alleged reluctance of the Canadien to borrow for improvements led to a steady bleeding of capital out of the colony to be invested in the dull security of the British funds. It also discouraged the influx of foreign risk capital. In 1835-36, the abolition of the Bank of the United States created a temporary glut of capital, the owners of which investigated Lower Canadian township lands and even seigneuries, but generally took their dollars elsewhere. This wasted opportunity for a windfall of capital sparked the campaign for registry offices led by the Montreal lawyer William Badgley, but neither the loss of American sales nor Badgley's pamphlet campaign was really central to the question any longer. That had reached a more or less final shape in 1829, when the defeat of Vallières' registry bill confirmed most British colonists in their impression that the patriotes were happy to stifle investment and encourage fraud.³²

So it was apprehension more than arrogance that welded the disparate elements of the British community into an appearance of solidity after the election of 1834. Unhappily for the constitutionalists, much of their story can be better told under the heading of the causes of their disunity; the positive side of the story can be shortly related. Superficial unity was preserved for more than a year, but there was steady pressure from within to turn the associations into organs for social change rather than for constitutional stability. The British whigs' failure to give clear answers to the colonists' first mass petitions in 1834 triggered a restlessness which the CAs ill managed to contain. The main associations at Quebec and Montreal were active until the end of 1838. The separate "Constitutional Union of Mechanics and Tradesmen" at Quebec and the more ephemeral unions in the countryside generally lasted long enough to elect executives for 1836. Together, the MCA and QCA collaborated in two ventures which

are worthy of note: the sending of delegates to brief the NACA and the Colonial Office in 1835 and 1837-38, and the creation of a sort of constitutionalists' parliament, the Select General Committee which met twice in 1836. The modest success of Walker and Neilson in 1835 and the achievements of Moffatt and Badgley in 1838 have been noted earlier; the chief accomplishment of the Select General Committee seems to have been to force an open split in the QCA on the question of reuniting the Canadas. The British colonists could pretty generally agree on what was wrong in the colony: they were far from accord in seeking cures.³³

v

The forces dividing constitutionalists were as interesting as those uniting them. They united in fear for the present; they divided on their visions of the future. From the middle of 1835, when the associations were scarcely six months old, Neilson was trying to gloss over divisions in the executive of the QCA.³⁴ The Britons of Lower Canada were not the genteel blend of economic liberalism and political caution that had backed Dalhousie; the new movement was the sum of the discordant traits of the mass. The creation of constitutional associations provided a forum for the views of factions within the minority. Through addresses and petitions, the middle-class spokesmen for different points of view could appeal for support to the crowd. The feelings of a crowd can hardly be deciphered except by straws blowing in the wind, especially when no laws are broken, no culprits interrogated. But it is significant that as one large parade passed points of interest in Montreal, the longest, loudest applause was given for Adam Thom, who as editor of the Montreal Herald was an outspoken advocate of cultural confrontation. More hints are conveyed in the mottoes stitched onto banners carried in these parades, which ranged

from the whiggish to the bloodthirsty.

The tamest of the banner's simply re-iterated the basic precepts of the petitions of 1834. "May men of all classes and creeds, and from all countries, unite in the improvement of the Province" said one. Some were conspicuously Irish, bearing harps, shamrocks, slogans in Gaelic, and in one case the legend, "O'Connell's cry -- the Queen and old Ireland!" The old-style moderate reformers were well-represented by slogans like "Walker and the Constitutional Reformers", "A Reformed Council - Not an Elective One"; "No Sinecures - no Pluralities" and, succinctly, "Reform - not Revolution". Others were explicitly anti-patriote or anti-French. "Our two great objects - Registry Offices, and the Abolition of Feudal Tenures" struck two main features of the land question. "Unshackle British enterprise, then Lower Canada will prosper" echoed a popular theme of the recent election campaign. Others were blunt and unpleasant. "Canada won by the blood and treasure of Britons" marched in front of an affirmation that "Britons die, but never surrender"; "Canada must not be lost or given away" moved in procession with "Britons will never be the Slaves of Traitors." It is impossible to trace individual banners to specific people or groups; but it is worth observing that at Quebec, where the educated middle-class had a separate CA from the "mechanics and tradesmen" of humbler origins, the "mechanics" showed conspicuously more warmth and colour in their militarist and anti-French rhetoric.³⁵

The middle- and upper-class leadership of the CAs no doubt reflected the views of the crowd in distorted proportions, but the diversity itself was fully present. English, Americans, Irish and Scots brought to Lower Canada all the diversity of opinion in the English-speaking world, and many of the immigrants, notably the Scots, were unwilling to abandon the old fights despite the pressing nature of the new one. Individual leaders found themselves forced into resignation

-- symbolic or real -- from the movements they had helped to found, and the CAs gradually became pressure groups for changes quite alien to the loyal petitions of 1834. Four issues pierced the original solidarity: attitudes towards the local bureaucracy and Britain; church establishments; the merits of republican institutions; and the role of French Canadians in the colony's future.

Officially, the constitutional associations spoke only through the resolutions of their general meetings, which generally became mass demonstrations with more than a thousand participants. But in the pages which follow, constitutional opinion is taken to include the reports of committees, speeches given at CA meetings, private correspondence of constitutionalists, and newspaper reports and articles. The English-language press, especially at Montreal, was more interesting than there is room here to discuss. John Neilson of the Quebec Gazette, Robert Armour of the Montreal Gazette, and Adam Thom of the Montreal Herald were conspicuous in the CAs; Robert Weir, the hard-drinking young Glaswegian paper-merchant who owned the Herald, was prominent in at least one fringe group. William Walker was closely connected until early 1836 with the Morning Courier, a paper which seems to have replaced the old Canadian Courant and short-lived Daily Advertiser in catering to the American community at Montreal. The Herald and Gazette copied liberally from each other, but the Courier went its own way, and it was probably the efforts of its editor, Dr. Barber, to speak authoritatively on all matters before the CA's executive that led a general meeting in February, 1836, to deny strenuously that any newspaper had the authority to speak for the organization.³⁶

The constitutionalists divided first on the question of how to confront the obvious short-comings of the local

bureaucracy. Although there were a few part-time officials and sons of bureaucrats in the QCA, the major administrative families -- the Sewells and Rylands, Davidsons, Caldwells and Hales -- were missing, and would not have been welcome. The original document of the constitutional movement, the "Declaration of the causes which led to the formation of the Constitutional Association of Quebec" (issued in December, 1834) criticized the judiciary and alluded to the Executive Council as a body too small and "too defective" to advise the Governor effectively. The equivalent document from the MCA admitted that the Executive Council had only "feeble claims" to public confidence, said the Legislative Council still had too many placemen, and held up the Sewell family to "public reprehension" for its accumulation of offices. The branch CA of Frampton, south of Quebec, listed reforms in the representation, in the judiciary, and in the two Councils as its prime concerns. The St. Francis District CA, meeting at Richmond, carefully dissociated itself from support for Lord Aylmer's government. In the early history of the CAs, no voices were raised against Andrew Stuart's dictum that in any dispute between the government and the Assembly the constitutionalists must remain perfectly neutral. Even the patriote Morin accused the constitutionalists of trying to become a fourth estate; he did not assume they were an arm of the executive or the Legislative Council.³⁷

But impartiality could only persist while the Legislature was not in session. It became impossible for constitutionalists to remain aloof when the Assembly attacked certain officials. At Montreal the Gazette sanctimoniously remarked that bureaucrats guilty of wrongdoing should not be protected simply because they were upholders of the British connexion. The Courier thought this stance inadequate, and denounced Armour, Thom and Neilson as Tories because they refused to join the campaign against Caldwell, the inoffensive old Judge Bowen, and the hated Commissioner of Crown Lands,

William B. Felton. The Courier published long excerpts from the proceedings against Felton, including a swingeing critique of his published self-defence.³⁸

The cases against Felton and Bowen split the QCA. The chief antagonists were B.C.A. Gagy, son of the sheriff of Montreal and MPP for the Anglo-American county of Sherbrooke, and Thomas Cushing Aylwin, son of Quebec's high constable. The QCA's founding meeting criticized unwarranted harassment of the judges, and in October, 1835 Neilson and the Courier argued in print the merits of attacking the bureaucrats. In March, 1836, Aylwin made a full-scale public attack on Gagy who had "carried on in a manner that would disgrace the Spanish inquisition." Gagy quit the executive of the QCA within the week. But even Aylwin must have realized he had gone too far, for his strong speech defending bureaucrats from the Assembly contained the interjection that "the officials... had done a great deal of harm in this country."³⁹

If the constitutional associations were lukewarm on the bureaucracy, they had little doubt about their allegiance to Britain. References to self-reliance were infrequent and oblique. Even the Montreal Courier would go no further down the road to annexation to the United States than to observe tartly that "Some honest people seriously think that the scheme would be an advantage to the community, and many knaves imagine that it might be profitable to themselves." In unguarded moments leading individuals might flirt with annexation but the official pronouncements on the subject had nothing to say in favour of annexation.⁴⁰ This was expedient, for the value of the constitutional associations lay in their showing Britain that a large and respectable body in the troubled colony of Lower Canada was content with the British connexion. It was the politic deference to the status quo, ironically, which inhibited the constitutionalists from proposing concrete reforms in the body they considered most defective (next after the Assembly), the Executive

Council. British statesmen could justly complain that it was all very well to say the Britons in Lower Canada wanted reforms, but they had never said what they would consider acceptable.⁴¹

On Aylmer's recall the constitutionalists of Quebec followed the lead of the city's Board of Trade by addressing the Governor directly with praise for his administration and fears that the motives behind the recall "tend to convey the impression that His Majesty's Ministers are prepared to sacrifice the rights and interests of the inhabitants of British and Irish origin... to the misrepresentations and clamour of a designing party." Gosford got a chilly reception. The Courier was the only constitutional paper to predict a good outcome from the whigs' enquiry,⁴² and in most other constitutional quarters suspicion had changed to hostility by the end of October, 1835. The decisive question was the contingent expenses of the Assembly. Glenelg correctly perceived that if there were no contingencies there would be no session, and he was determined to make one last effort to conjure up the first supply act since 1831.⁴³ The QCA drew Gosford's attention to the fact that the ninety-two resolutions pledged the Assembly to pay from its contingencies the cost of its corresponding committees (partisan at best, revolutionary at worst) but Gosford was not deflected from carrying out his instructions. The furore was quickly heard. At Montreal, a group of radical Britons from outside the constitutional association formed the British Rifle Corps, and re-formed as the British Legion when Gosford suppressed the original body. The Quebec constitutional mechanics called for Gosford to be impeached for spending public money without a supply act or fair prospect of obtaining one. The Mississquoi Constitutional Association formally joined the call for impeachment, as did a new club of "Church and King" tories at Montreal, the Doric Club. Again only the Courier rose to Gosford's defence, denouncing his critics for "Toryism, the secret spring of their disreputable conduct."⁴⁴

By the time of this exchange there was more fodder for debate. Gosford's camouflage had been stripped off by the publication in Upper Canada of parts of his instructions from Glenelg. These were markedly more cautious than the equivocations given to the Assembly by the Governor and Chief Commissioner himself, and buoyed the constitutionalists' hopes, especially on election of the Legislative Council and the disposal of Crown lands.⁴⁵ Other incidents contributed further to the constitutionalists' feeling that they had more breathing room. Gosford closed the session with a speech deliberately courting their good opinion. The close of the colonial Parliament in March, 1836, began an upswing in the constitutionalists' morale. From that time forward, the imperial connexion gave confidence, not concern, to the CAs of Lower Canada.

vii

The unity of the movement was the first casualty of this optimism. From acting like an oppressed minority, the constitutionalists began to behave like an oppressed majority -- indignant of the way they were treated by a small fraction of King William's subjects, but confident enough of eventual victory to quarrel over the form that victory should take. During 1836 public controversy raged at Montreal over the question of church endowments, a natural topic for controversy in a colony where the Catholic and Anglican churches had considerable property endowments from the state yet much of the middle-class social leadership was Presbyterian. The general disruption of the Kirk in Scotland was preceded by a similar quarrel among Presbyterians in Lower Canada over whether they should try to share the proceeds of the clergy reserves with the Church of England.⁴⁶ Voluntarism was a useful stick with which to beat both Anglican bureaucrats and the Catholic Canadiens, and within two months of Walker's

triumphal return from England he was struggling to retain his seat on the MCA's executive committee against an anti-Anglican, anti-Canadien faction which he believed was in league with the Upper Canadian reformers. The executive at the end of February, 1836 lumped clergy reserves in with the "feudal" tenure and absence of registry offices as some of the grievances Gosford was condemned for upholding. The Doric Club countered by denouncing all attempts to meddle with the reserves. Walker in private correspondence with Neilson observed that voluntarism could only work where education was widely diffused, and recorded in April the intransigent behaviour of three members of the executive who were "going to form a Society for the protection of religion & liberty, as if that needed to be protected here." They were trying to eject Moffatt, McGill and Walker from the MCA, describing them as "tories -- seeking to perpetuate abuses in Church and State." Eventually the Anglican George Moffatt did resign his seat in the executive committee, complaining that he could not tolerate the stand of the general committee of the MCA on Church establishments. The association had not been created to "meddle with ecclesiastical affairs"; the clergy reserves were for the "Protestant Clergy in the broadest sense", that is, including Presbyterians; he could not approve of despoiling the clergy even for "the laudable purposes of general education. Nor am I less averse to interfere with the Roman Catholic Clergy." Moffatt was too valuable a member to be kept outside the MCA for long, but for the time being his departure encouraged the voluntarists.⁴⁷

In August the voluntarists launched from the Courier office a petition which was strongly anti-Canadien and anti-establishment. The petition garnered a meagre 2,000 signatures and suffered the ignominy of having several individuals strike off their names after signing. The leading Presbyterian voluntarist was Adam Ferrie, who in

September started the Religious Liberty Society whose prospectus declared that "All arguments in favor of exclusive religious establishments... founded upon the peculiar circumstances of the Parent Country, are wholly inapplicable to that of British America" and asked, "Is the population of the British American Colonies composed of the same elements, is it activated by the same spirit, as that of the old country?" The answer offered was that Britain only wanted the colonies to buy her manufactures, and anything inhibiting economic development, such as clergy reserves and Catholic clergy-owned seigneuries, was anti-British. Ferrie chaired the founding meeting of the Society, at which leading participants included a Presbyterian cleric, the Rev. Henry Esson; John Redpath, Benjamin Holmes, and two patriote MPPs, Leslie and Dewitt! British precedents were declared "wholly inapplicable to British America, in which the state of society is... in almost every respect identical with that of the United States." The Society's temporary influence was strong enough to make Walker lament that "the Constitutional Party is scattered to the winds." Yet by year's end an attempt by Ferrie to denounce the executive of the MCA at the annual meeting was a total failure, and no more was heard of the iniquities of church establishments as attention turned once more to Britain's efforts to quell the republican tide running from the Assembly at Quebec.⁴⁸

viii

The Religious Liberty Society brought to the fore another tear in the fabric of constitutionalism -- a lack of unanimity even on the relative virtues of republican and monarchical forms of government. The Latin tag gracing the head of every issue of the Courier was a line from Seneca, "Optimus est Reipublicae statut, ubi nihil deest nisi licentia pereundi." The constitutionalist Farmers' Advocate at Sherbrooke declared

at the end of 1835 that "We are no enemy to true Republicanism, and we know full well that very many inhabitants of the Townships are favourable to Republican Institutions." In one of the decade's best descriptions of the forces arrayed against Papineau, the young secretary of the Gosford Commission wrote to a friend in London, "I do not like the English party.... They, of the two parties, are by far the best disposed to sympathize with Republican Institutions." The constitutional MPP for Mégantic was a warm admirer of the British radical J.A. Roebuck, and in 1836 called a meeting of Mégantic electors to scrutinize his own conduct in the Assembly. This unusual proceeding suggested a relationship between electors and representatives almost as remarkable as that enunciated by the constitutionalist MPP for Stanstead in 1837, that the representative must not "subvert the order of Government without express instruction from his constituents."⁴⁹

And prescriptive legitimacy, the bulwark of Dalhousie's supporters, was scarcely mentioned. The name "constitutionalist" itself was ambiguous, for it was used by both parties in the 1827 election and appeared in the Ninety-two Resolutions in a commendatory sense.⁵⁰ No doubt prescription still lodged in the bosoms of a few tired old bureaucrats, and the lower forms of political journalism continued to harp on Britain's rights of conquest, but the middle-class leadership of the constitutional associations struck more modern notes. The Montreal Gazette hailed the nascent MCA as "our Convention" for upholding British institutions; Andrew Stuart referred to "our full rights as British subjects" and Aylwin went so far as to refer to the "natural rights and liberties" of the subject. John Duval stressed the popular legitimacy of the British connexion -- "the throne of England is the people's choice". The Courier took pains to distinguish the Upper Canadian radicals (who were friendly to commerce as well as to popular sovereignty) from the patriotes, who obstructed

everything British. The CAs' executives themselves were answerable to the members at annual meetings and subject to election by ballot.⁵¹

The selection of delegates to the Select General Committee in June, 1836, also bore out T.F. Elliot's remark that British Lower Canadians would be at ease with republican practices. Members were drawn from the province on the basis of representation by (constitutionalist) population, and by February, 1836, each of the civic wards of Quebec had a "vigilance committee", charged with the task of registering all the inhabitants. Voting for SGC delegates at Quebec was by show of hands in each ward vigilance committee, and the same probably happened at most of the other eighteen or more vigilance committees which nominated forty delegates in all from Rimouski to Beauharnois, from Two Mountains to Mississquoi.⁵² The SGC met twice in 1836, called for Gosford's recall in June, demanded the reunion of the Canadas in November, and named Andrew Stuart, George Moffatt and Alexander Gillespie as the constitutionalists' official spokesmen in London. The SGC was not a great success, but the principles on which it was chosen made it apparent that the middle-class leaders of the CAs had learned to perfection the game of enlisting numbers in the quest for legitimacy.

If the constitutionalists were moving towards popular institutions, they had a single opinion of Papineau's version of democracy. The MCA's general committee put it best in November, 1835:

Both forms of government [republicanism and monarchy] have their advocates; each can be sustained by powerful arguments derived from history and reason.... The Association numbers amid their ranks, many of the children of Republican America, who... are proud of her institutions. Enrolled in the Association is a very large body of individuals...

who, witnessing the effect of despotism to degrade, and of freedom to elevate and ennoble, willingly join in the declaration that the source of power is in the people....

But whilst the Association record their conviction that the intelligence of a people is the guarantee for the proper use of the elective principle, they appeal to history, in particular to the progress of the Republics of South America,... to bear them out in the assertion that, when a population is unlettered and unenlightened, to entrust them with the unrestricted use of political power would... retard the progress of rational freedom.⁵³

Education must come first, or liberty was a curse. The Assembly's demand for payment of its contingencies was the first step to unicameralism; the emasculation of the Legislative Council would be another stage. And as for the "convention nationale" hinted at in the 41st resolution, a canadien lawyer told a general meeting of the QCA in March, 1836, that "such a measure would be destructive of the first principles of Government, for when the people were called together with the countrouling power... there was nothing but brute force that could prevail." Neilson pointed to Spain and Napoleonic France as examples of democracy gone astray among people not yet ready for it. Pure democracy was not the government of the United States, but of France for a time, the time of "a National Convention and a Committee of Public Safety... and the Guillotine.... That was a pure democracy."⁵⁴ French-Canadian political philosophy and political competence were on trial -- popular sovereignty (properly checked) was not. In 1837 the constitutionalists struggled successfully to get an Irish working-man elected in a riding whose most respectable businessman had failed to be elected three years before; not only the professional and bureaucratic élites had rejected Papineau's programme for Lower Canada.⁵⁵

ix

The fourth division in the constitutional movement, and the one which finally drove off leaders such as Neilson and Walker, was the place of the French Canadians in the new order which must follow the upheaval Papineau was bent on creating. Constitutionalist generally deplored the economic lassitude of the French Canadians, and seigneurial tenure came under heavy attack, although there was enough British seigneurial influence in the CAs to ensure that this issue never came to a head. The Quebec executive split almost equally on the issue early in 1836. Privately most of its members seem to have been content to leave the tenure alone, and no doubt concurred with Walker of Montreal, that seigneurial tenure was not, in itself, a cause of the agricultural crisis in Lower Canada. A bare majority of the executive pressed this view but encountered the fear expressed by George Pemberton, that stronger words would offend the Montrealers and "greatly injure the cause we both advocate and afford a great source of triumph to our adversaries." The QCA in December, 1836, encouraged extinction of seigneurial burdens but only by private compact between seigneur and censitaire.⁵⁶

It was one thing to brand nearly half the population of the Canadas as politically and economically incompetent; it was quite another thing to remedy the situation. This was particularly true because the constitutionalists, with their roots tapping the lowest levels of the British colonial community, were firmly attached to the sorts of civil privileges which the Canadiens were using to further their own views. The anti-French and pro-republican faction at Montreal put abroad through the Courier schemes for what Walker called "a democratic form of Government to be vested solely in the educated... to the exclusion of the Canadians, who are to be deprived of civil rights and their language & institutions extirpated." As the Courier pressed the cause

of this impatient faction, Neilson taunted its editor, Nothing common about him, not even common sense. He is a liberal illiberal, a voluntary involuntary religious support man, a majority minority man of the true school, whose rule of right is 'numbers', according to which rule in this Province he is avowedly wrong.⁵⁷

"In this Province". But what was that province but the artificial creation of an Act of Parliament whose authors had been confounded by the survivance of French Canada? The "loyal Reformers of St. Armand", the Mississquoi CA, met a few miles from the American frontier and lamented that "the boundary line, which separates the Townships from a foreign state is less distinct, than that, which separates them from a portion of this Province", a fact which "loyal subjects of His Majesty... ought to use all their power to remedy." At Sherbrooke the CA's executive committee called for the townships to be made a separate province under Britain, or part of a British North American federation.⁵⁸ But there was a simpler solution, one which appealed to the democrat as well as the bigot, to everyone, in fact, to whom the local civil law, "repudiated by the people from whom it was derived",⁵⁹ was a nuisance or a burden. The solution was reunion of the Canadas, the mere erasing of the imaginary line dividing Upper from Lower Canada, Montreal from its commercial hinterland, Lower Canadian Britons from the majority status they craved. The Montreal press had never really given up the issue after 1822, and the Courier, Herald and Gazette all revived it in the mid-thirties. The Select General Committee hesitated to endorse reunion in June, but had no reluctance to do so in November, 1836, by a large majority including Stuart and Young of the QCA.⁶⁰ Neilson put up a stiff fight in the Gazette, and the Mercury was not converted, but there seemed no getting around Aylwin's reasoning, that the Assembly's obstructions proved that the British constitution

worked only in British hands. Since constitutionalists cherished their elective institutions, they must take their majority where they found it -- in the growing settlements of Upper Canada.

As long as the great lakes above emptied their waters through this magnificent channel into the Atlantic -- so long would the interests of the Provinces of Upper and Lower Canada be combined; and not only in local affairs would their interests be combined, but likewise in all the great and important objects of legislation.⁶¹

As the patriotes steadily lost ground by their political and economic obstruction, the Constitutional movement opportunistically concentrated more and more of its energy on lobbying for reunion, the only measure that would square the circle of stimulating economic development without diluting the colony's already substantial doses of popular sovereignty.

Chapter 9 The Special Council of Lower Canada, 1838-1841

i

The constitution of 1791 died in Lower Canada at the end of August, 1837. Gosford's long-delayed enlargements of the Executive and Legislative Councils were disregarded by the patriotes, who shut down the Legislature by refusing to proceed to business until all their demands had been met. The number and size of public meetings grew and, as in 1827, prominent men risked and lost their commissions in the militia and magistracy by taking a leading part in condemning the government. For a remarkably long time the Lower Canadians of all origins persisted in their dignified custom of breaking each other's heads only during elections, and leaving meetings unmolested in the political off-season. This pattern was broken in November, when the Doric Club clashed violently with Les Fils de la Liberté. In quick succession afterwards two arrested patriotes were rescued by an armed force, and major clashes occurred in the Richelieu Valley as Sir John Colborne's troops became involved in Attorney-General Ogden's pre-emptive strike against the rebellion, which was expected to break out as soon as the St. Lawrence froze. The harassment of loyal Canadiens and British farmers before the revolt, the atrocities of the patriote rebels and the retribution of the loyal volunteers were an ugly sequel to the mounting mistrust of preceding years. But when a sullen peace was restored, the colony still had to be governed and legislated for; and the instrument which evolved for this purpose was the Special Council of 1838-41.¹

The Special Council invites thorough investigation. Its achievements were important, and were watched with care and interest in its own time. Its legislation showed interesting links with the past and the subsequent history of the colony. Its constitution was a major blow to the prevailing British policy of trying to govern through representative assemblies wherever such bodies existed, and as such was regularly referred to during the whigs' abortive attempt to suspend Jamaica's constitution the next year.² Nonetheless, historians have been reticent about the Special Council, except for occasional disapproving remarks by writers whose subject matter compelled them to notice the more prominent ordinances. Only one writer has treated it in detail; Antonio Perrault, editor in the 1940s of the French-Canadian Revue du Barreau, marked the centenary of the Council's demise with a summary of its work, and drew attention to several ordinances which had survived more or less intact in the Civil Code or the Revised Statutes of Quebec (1941). Apart from this the article is chiefly a compendium of the Council's proceedings. The article deserved a wider distribution than the Revue du Barreau could give it; but even if it had been widely studied, its strongly legalistic and conservative inclination would probably not have influenced modern writing.³

ii

The collapse of Britain's conciliatory policy was foreshadowed by the coercive Ten Resolutions in March, 1837, but not fully acknowledged until the colony's leading reformers were known to be in revolt. The whigs greeted this news with open expressions of firmness but much inward confusion. The ministers' original plan was to make a few careful and

specific enactments because Lord John Russell feared the creation of special powers in the colony might lead to lurid and tyrannical measures like secret trials and torture. But Lord Howick argued that colonial revenues should only be appropriated by a colonial authority and confusion would result if the Governor could do nothing without instructions from home. Moreover, the measure under consideration seemed to presume that the constitution of 1791 would be restored, something which could no longer be taken for granted. Howick recommended instead giving limited legislative authority to the Governor and a small council. Howick was opposed by the more liberal wing of the cabinet (Russell, C.P. Thomson, J.C. Hobhouse and Lord Cottenham) and a compromise was worked out, based on the old Quebec constitution of 1774, to permit the Governor to legislate with a council of at least seventeen members. Lord Durham later insisted on Howick's plan for a more compact council.

Although Durham followed Howick's scheme intermittently during the summer and autumn of 1838, the Council worked for three years on the compromise plan which had been cabinet policy for a scant six days. This came about for two reasons. First, Howick forced the government to focus its attention not on the interim conduct of legislation, but on the steps to be taken to draft a new constitution.⁴ Second, policy was deeply affected and probably inspired from sources which had hitherto carried little weight in the counsels of imperial policy, the North American Colonial Association, and the Constitutional Association of Montreal. The Act suspending the constitution passed by Parliament in February, 1838, was virtually a transcript of the one proposed by George Moffatt and Robert Gillespie; it included only two additional provisions, probably put in to satisfy Russell: the Council was to consider only laws proposed by the Governor, and its acts were invalid after

November, 1842.⁵

Durham rejected advice to go straight to the colony by way of New York; he preferred to wait for the St. Lawrence to open in spring, and land in state at the gates of his castle. Glenelg accordingly instructed the Administrator, Lieutenant-General Sir John Colborne, to summon a Council at once and enact necessary measures, particularly to renew expiring Acts. Colborne was to warn his Councillors their appointments were temporary, since Durham would probably want an entirely new board. Colborne replied that he expected to have by mid-April a Council of "Gentlemen of Character and respectability, who have sufficient influence in their districts to warrant their being selected." Glenelg had simply told him to appoint at least five British subjects; Colborne contemplated a Council of twenty, carefully selected to represent all districts in the Province.⁶

Colborne and his advisors agreed with Moffatt and Gillespie that since the Council was the only Legislature they had, it should function like a truncated Parliament -- this would, apart from anything else, enhance its appearance of legitimacy. The Montreal Gazette strongly criticized the Governor's exclusive right to introduce laws and to choose or dismiss Councillors at will: if these provisions were frequently used, the Governor might just as well legislate by edict.⁷ The intentions of the Colonial Office are unclear; no objections were made to Durham's despotic use of the Council, but Colborne was sent a copy of the standing rules of procedure of the Legislative Council of the Cape Colony, with the suggestion he might wish to conduct his own Council in the same quasi-parliamentary fashion. Colborne, as a military figure who trusted most of the constitutionalists, was happy to let the Council give advice as well as consent on legislation. Laws were proposed not only by Colborne but by his law officers, the

Executive Council, and members of the Special Council itself.

As soon as Colborne learned he was to summon a Council, his advisors prepared lists of prominent men of all parties untainted by rebellion. From these lists he first excluded judges and officials, and then selected twenty-two names roughly apportioned on the same territorial basis as the 88 seats in the former Assembly.⁸ The division of the Council according to origin was also carefully watched, for Colborne realized that to "suit the times" there must be Canadiens in attendance. Such members were not impossible to find. Examples of co-operation between French and British Canadians are a small footnote to what was happening in the Legislature and among the masses, but they emphasize that origin was of less importance than political behavior and, despite Papineau, there had been efforts to strengthen ties between the upper middle classes of both origins.⁹ French Canadians, by birth or adoption, dominated the first Special Council. Half the names were British and half French, but the British included the francophile Neilson and James Cuthbert, seigneur of Berthier, a zealous Catholic with a canadienne wife. The exclusion of rebels and the strong disposition to use the Council for general measures of commercial reform and public improvement meant that the anti-British, anti-commercial element which had captured the people's confidence in 1834 would have no place in the new authority. A considerable number of places went to prominent Britons, though many of these, like the wealthy merchant W. Walker of Quebec and P.H. Knoulton from the Townships had never been prominent in politics. Peter McGill, Samuel Gerrard, the lawyer Turton Penn, John Molson and Moffatt himself had all been leading constitutionalists. To this list of traditional leaders might be added two French Canadians, retired fur-traders and members of the old Legislative Council, Toussaint Pothier and Pierre de Rocheblave.

A more nebulous middle ground was taken up by men like Neilson, Cuthbert, and a third retired fur-trader, Jules Quesnel. Although the disaffected branded them tories, they were really remnants of the moderate third force. And there were four men whom even the most unfair critics had to acknowledge as reformers. These included two members for the Trois Rivières district, Joseph Dionne and Etienne Mayrand, and two from the Quebec district, Amable Dionne, who voted for the Ninety-two Resolutions as MPP for Kamouraska in 1834, and Marc Laterrière, who had supported the same cause. (Laterrière, however, never occupied his seat in the Council.)¹⁰ These appointments indicated the extent to which Colborne sought a Council which would represent the loyal men of influence of all political persuasions. If the Council appeared to be packed with "tories", this was partly because of the patriotes' relentless attack on the political centre in the years leading up to the rebellion.¹¹

The creation of the Special Council marks the reappearance in this narrative of James Stuart. He was still the most able lawyer in Lower Canada. He had brooded over his dismissal from the attorney-general's office by Aylmer and immediately after the revolt of 1837 he set out with T.C. Aylwin to join forces with William Walker at Montreal to defend the captured rebels! But Stuart joined the Special Council as one of the members from Quebec. Durham made him Chief Justice in the autumn of 1838 and Colborne excluded him from the Council; he returned under Poulett Thomson in 1839 and thereafter proved "a host in himself" in assisting the Governor.¹²

The twenty men who answered Colborne's summons to the Council chamber in the ancient Chateau de Ramezay at Montreal, were as representative a body as could be assembled without admitting the disaffected, or resorting to elections

among a populace many of whom had just laid aside their arms for a season. The Canadien Councillors numbered rather too many seigneurs, retired fur-traders and Legislative Councillors to earn the trust of the people, who had been taught to despise anyone who accepted office under the government. But early fears that Colborne's Council would be simply a pliant instrument of coercion proved groundless.

If Colborne's Council was a distorted reflection of the Legislature it replaced, Durham's hardly existed at all. The man for whom the special legislative authority was designed requires scant mention in a study of its use. This is due partly to the fact that his administration lasted less than six months, but also to the restricted view he took of the Council's role. Shortly after Durham arrived he dissolved Gosford's Executive Council and Colborne's Special Council. The former he replaced with three men from his entourage and two local officials; the Special Council was neglected until 28 June, when Durham had the required oath administered to his chief secretary, Charles Buller, and to four soldiers including the military secretary, Colonel Couper, and Durham's brother-in-law, the Hon. Charles Grey. Grey left some valuable reflections on the confusion which surrounded the summoning of this council and the extreme reluctance of the military figures (except for Couper) to be dragged into politics. Durham's Council served no purpose at all except to meet the formalities of the Act under which Durham governed. Grey never could understand why he had been appointed, and tried to resign in August; but Durham merely said that if he and Generals Clitherow and MacDonnell were now to withdraw,

it would make it very difficult for him [Durham] to go on.... I told Colonel Couper, however, that I should certainly not be satisfied to be called upon as a Member of the Special Council to sanction

an Act which I might only hear for the first time when assembled to pass it, and begged him to manage that if I was to be called upon again, I might know beforehand what was proposed to be done.

But this Council met only once more, almost on the eve of Durham's departure, with Grey and MacDonnell present and Buller's younger brother sworn in to replace Clitherow.¹³

The abrupt end of Lord Durham's mission came about because of one of his ordinances, a measure deporting prominent rebels to Bermuda without trial. The dormant threat to Durham's mission had always been that some blunder would disarm his friends and give fatal ammunition to his enemies at home. The Bermuda ordinance was this blunder, and Lord Brougham and the House of Lords compelled the Government to disallow it. The debates gave the impression that Durham had exaggerated the Council's powers. These proceedings were universally deplored in the colony, but Durham took great umbrage; sick, over-worked, abused at home and exasperated by Lower Canada, he declared that his mission was destroyed. His departure was not retarded by Sir John Colborne, who told Couper that "The affairs of both Provinces have now become altogether military", and added with unaccustomed acerbity that Durham should cancel his projected trips to Washington and New York, for Canadians would not want him to "pass through the United States, however gratifying that reception might be to him."¹⁴

As soon as Durham was gone, rebellion broke out anew. Colborne at once convened his old Council, adding to it George Moffatt and the senior member of the Montreal Bar, Dominique Mondelet. This preserved the racial balance of the Council without broadening its political complexion. Less than a year later Colborne made several new appointments. An imperial Act (2 & 3 Vict. cap. 53) broadened the Council's powers in the summer of 1839, and also raised the minimum

number of Councillors to twenty, and the quorum from five to eleven. This may have been a reaction against Durham's cavalier treatment of the Council; it may also have been a response to Robert Gillespie's proposal that the Council should be enlarged to sixty, "comprehending some of the most respectable and loyal French Canadians as well as the British Inhabitants... to deliberate with open doors."¹⁵ Gillespie's purpose was seemingly to help forestall the return of representative government by giving the Special Council greater legitimacy in the eyes of Parliament. The Colonial Office gave no special countenance to this proposal, but Colborne enlarged the Council by half in the summer of 1839. The passivity and bitterness of canadien feeling after the second revolt was crushed can be gauged from the fact that only one new French-Canadian accepted a seat -- Jean-Baptiste Taché, yet another retired fur-trader, but a notary with the useful credential that he represented Rimouski in the Assembly from 1834-37. He probably accepted the Special Council seat (which he never occupied) to expiate the faux pas of his brother Etienne-Pascal, who had led a small disturbance at Montmagny in 1838.¹⁶

Before the enlarged Council could meet, Colborne was replaced. He had tried to leave Canada in 1836 and again during the summer of 1838; but on Durham's departure he had become Governor-General, and he obviously enjoyed his role. Sadness tinged his usual laconic style as he informed colleagues of his departure.

I have no doubt that the object of Ministers is to allay and propitiate by sending out a Nova Facies, and recalling the person who has been compelled to have recourse to the severe measures which have been adopted. I was fully prepared for this course at the commencement of my Reign; and was convinced that after I had performed all the

detestable duties which circumstances imposed on me, I should be removed.

To the proposal that he should remain as Commander in Chief only, he replied,

Can you imagine a more painful situation than for the present Governor of these Provinces to relinquish his post, to remain in Canada under the command of his successor to witness the gradual introduction of the milder sway which must naturally succeed the Iron Age of last year and to receive the maledictions of the disturbers of Society who have been repressed.¹⁷

So his government was relinquished to the ebullient new man, Charles Poulett Thomson. Thomson's first responsibility was to secure the Canadas' assent to the union of their legislatures and executives, and he accordingly summoned the Special Council, the only appropriate body in the lower province. He might have followed Durham's course and dismissed the old council, but he realized that as the British government was well known to favour reunion, no credibility whatever would attach to the voice of a body chosen after the imperial policy was announced. The resolutions on reunion were therefore framed, debated and passed by members already appointed by Colborne.¹⁸ Thomson did subsequently change the Special Council's complexion. He appointed Henry Black of Quebec, whom Colborne had passed over in 1838 because he was a judge. Thomson also selected Provincial Secretary Daly, and Attorney-General Ogden; and when Durham's Solicitor-General (Andrew Stuart) died in 1840, his successor C.D. Day went into the Special Council. These few appointments reversed Colborne's policy of excluding officials; Thomson had little affection for Durham's idea of choosing and dismissing ministers at the behest of a legislature, but he did like the thought of

having officials in the Legislature who were obliged to support the Governor's policy or leave office. This hold over the officials was authorized by Russell's despatch of 16 October, 1839, stating that henceforth the Crown should exercise its dormant prerogative of appointing key colonial officers only during pleasure. Early in the spring of 1840, Colborne's old aide-de-camp remarked to his former chief that some of Thomson's measures were passing by narrow majorities, in which Daly and Ogden played a conspicuous role. "These placemen with Lord John Russell's Dispatch before their Eyes, voted... with the Majority. After all, next to a Proclamation of Martial Law, this is the most effectual mode of carrying on Government."¹⁹

The parliamentary character of the Special Council's proceedings was fostered by Colborne and not fundamentally changed by Thomson. The rules followed by the appointed Council at the Cape of Good Hope were revised by Colborne to remove much that allowed publicity and delay, but retained the framework of Westminster procedure. Until August, 1839, the Governor did not have to publish ordinances before they passed, and the journals and proceedings were only published at the end of each session. The speed with which ordinances could pass was undoubtedly dictated by the frequent need to check disorder, but the secrecy before 1839 prevented public discussions. In practice, the lack of a strong, loyal canadien press meant that the abolition of secrecy strengthened the more extreme sections of British opinion. But secrecy did not prevail absolutely even under Colborne, or during Thomson's short session in the autumn of 1839. Editors had a habit of finding out about and commenting on the objects, if not the details, of important ordinances, and when Thomson pushed through his reunion resolutions, Neilson published the substance of them at once in his Gazette and the Colonial Office first learned of them from Robert Gillespie.²⁰

Attendance was always high and once a member accepted his seat he generally occupied it during substantial parts of every session, except for Taché, Laterrière, and a Townships member who was replaced after 1838. James Stuart missed two sessions after Durham made him Chief Justice, because Colborne refused to let him displace Cuthbert as chairman of the Council. The Governor no doubt saw advantage in having a French-speaking Catholic as his surrogate in the Council Chamber. But Cuthbert's role was modified; he took a considerable part in debates and voted regularly in divisions in the spring of 1839. Stuart renewed his claims to the Chair when Thomson arrived, and Cuthbert was at last displaced. The combative Chief Justice completed the process of reducing the chairman to virtual equality with the other members.²¹

Divisions frequently took place in the Special Council, but it would be difficult to assign precise partisan labels to anyone except Neilson, on the liberal or nationalist side of any question affecting the canadien laws and culture, and McGill, Moffatt and Penn who were usually consistent for the opposite side on similar measures. Early gestures were made to reassure the canadien Councillors. In the ninth meeting, De Rocheblave and Berthélemi Joliette, the self-made seigneur of L'Assomption, quietly insisted that French and English should have equal status in the Council's proceedings and papers; Colborne agreed at once. When an ordinance was discussed suspending habeas corpus, however, Quesnel, Faribault and Mayrand solemnly withdrew, explaining that they were too closely related to many prisoners to be able to deliberate impartially. They returned the next afternoon. The vote on a measure for improving navigation upstream from Trois Rivières separated members by district, regardless of origin. Finally, de Rocheblave withdrew briefly in December, 1838, when ordinances were rushed through nullifying

the factious judgements of two Canadien judges; but he was back in his seat the next morning.²²

Under Poulett Thomson, a sharper spirit prevailed; the introduction of civil officers brought legislative draftsmen into direct argument with the body dissecting their drafts. Furthermore, the moderation of the constitutionalists was eroded by their impatience to push through favourite measures before the Council was replaced by the less predictable legislature of the united Canadas. Thomson eventually called Moffatt "the most pig headed, obstinate, ill tempered brute in the Canadas."²³ The Special Council had worked admirably in time of crisis; it responded poorly to better times and a civilian Governor, and might easily have broken down completely if allowed to last another year.

During the sessions members worked hard; most of their names are sprinkled through the journals. The workings of the Council become much clearer after 2 March, 1839, when it at last began to refer ordinances to sub-committees. These small working parties handled much of the detailed or contentious material, and their reports emphasized that the Council's authority was not unreservedly at the disposal of the legal draftsmen. The burden of sub-committee work was borne by three men. Old Samuel Gerrard, ex-president of the Bank of Montreal, had been a quiet advocate of public improvements for decades; now in his seventies, he could lend a hand to shape many long-desired measures. The second of the trio was John Neilson; the third was Jules Quesnel, son of a French poet, a retired fur trader and now a Special Councillor at 52. Like Neilson, Quesnel combined liberal inclinations with a strong affection for the French Canadian culture. One must suspect these two of complicated motives; while they turned the handle of the legislative mill, grinding out the program of the Montreal merchants, they held a watching brief for the interests of

French Canada, and like Cuthbert they voted against the union in 1839. But with Gerrard, these two were the backbone of the Special Council even after it voted for reunion, their names dotting the journals as movers, seconders, and sub-committee members, and as frequent objectors when the Council seemed to show that, however busy and useful it might be, it was after all a partisan and non-representative body.²⁴

iii

The conventional image of the Special Council as a homogenous body issuing a few arbitrary and unpopular edicts is contradicted not only by its way of doing business, but also by the mass of useful legislation it produced. Its ordinances (so called to distinguish them from laws with the sanction of a representative Assembly) can be divided into four categories. First, the Council passed well-known ordinances to arrest, restrain, and punish the instigators of revolt, and to inhibit further outbreaks by such measures as impounding arms. Second, it spent a good deal of time simply renewing Acts passed under the old legislature's inefficient system of temporary laws. (Many ordinances of the later sessions gave permanent status to Colborne's temporary legislation, sometimes making technical adjustments in the process.) Third, there were routine measures, parts of any legislature's work, including voting supply. Fourth, many ordinances authorized measures of social and economic reform and reconstruction. Two of these categories invite little comment. The renewals and technical amendments occupied considerable time and represent almost one-eight^h of the 197 ordinances, but they and the routine ordinances raised few important political issues, especially since the Council was denied authority by Parliament to vote salaries other than those voted by the Assembly in 1832. It will therefore be

necessary to notice in detail only some legislation which was a specific response to the revolt, and the measures of reconstruction.²⁵

The sources of legislation were varied. Colborne kept Gosford's Executive Council, which drafted some important legislation for him; but it was quite partisan and Colborne once commented that he hoped several of its drafts would be "so modified and improved as to afford satisfaction generally in the Province;"²⁶ The law officers and heads of departments contributed their share of legislation, and James Stuart was a tireless draftsman, even before Durham made him Chief Justice. He does not seem to have had warm relations with Colborne, but Thomson took advantage of his unrivalled knowledge of French and English law. Stuart also worked with Thomson's English legal advisor.²⁷ Banking ordinances either came directly from the president of the Bank of Montreal, Peter McGill, or were amended at his suggestion. Ordinances emanating from the Colonial Office were not guaranteed a welcome; repeated efforts to pay the arrears due to the old Assembly's agent, Roebuck, failed even to find a mover. After the rising in 1838, the Colonial Office tried to force the Council to create tribunals for political trials. Moffatt and most of the French Canadians battled McGill and Penn and persuaded Colborne to withdraw the measure. He informed the Colonial Office that trial by Court Martial was more acceptable than unprecedented new tribunals.²⁸

Many ordinances, and particularly measures for public works, were inspired by the mercantile interests of Montreal. Gillespie and Moffatt had made it very clear in London that economic measures and legal reforms, not suppression of the revolt, were the chief reason for creating a special council. It should, they repeatedly told Glenelg, be authorized to amend the laws of mortgage and dower, create registry offices, reconstruct the judiciary, revive and

improve the defunct corporations of Quebec and Montreal, abolish feudal tenure, especially in Montreal, and deal with a host of internal improvements, notably the St. Lawrence canal.²⁹ In general the British colonists left it to the Governor and the law officers to punish those most responsible for the outbreaks, and to fix the exact terms of the three dozen ordinances which the rebellion elicited.

One ordinance which aroused some comment was the measure paying all the civil salary arrears. Although the public servants themselves had been paid in August, 1837, the money had been loaned by the British government, not drawn from the provincial treasury. When Colborne's first Council appropriated the requisite hundred thousand pounds, the Montreal Gazette expressed surprise that the money had not been allowed to remain on loan to the province!³⁰

A measure at the end of 1838 caused grave concern. This was, in the words of a contemporary, the "stroke that put down the insurrection on the bench" raised "by the patriote judges in support of their compatriots in the field." The description was apt. Elzéar Bédard and Philippe Panet, judges at Quebec, defied the ordinance suspending habeas corpus, issuing a writ for a political prisoner, imprisoning the gaoler and trying to imprison several soldiers who hid the prisoner. In so doing they struck down a legislative enactment, a procedure which was beyond their authority as two judges sitting in vacation. Bédard and Panet reasoned that habeas corpus was part of the criminal law of England, established in the colony by the Quebec Act of 1774 and so beyond the reach of the Special Council. Colborne's law officers and most of the other judges reported in favour of the ordinance; the "patriote" judges' ruling was a clear mockery of Parliament's intentions when it suspended the colonial constitution, and when Colborne was convinced that Parliament had not erred he promptly took the advice of the

Executive Council and suspended the two judges. He later suspended Vallières at Trois Rivières in identical circumstances.

Colborne next sent the Special Council a bill authorizing appointment of acting judges, and an ordinance declaring that the province's habeas corpus act was the local ordinance of 1784, not the English Act of 1679. (These ordinances led to Pierre de Rocheblave's emotional exit from the Council chamber.) The suspension was energetically defended in Neilson's Gazette, which berated the judges for showing the world that French Canadians could not govern themselves and were in fact making authoritarian government "necessary in Lower Canada." Lord Normanby had grave qualms about the incident and tried to reassure Bédard that he was merely on leave of absence; but Colborne, and afterwards Thomson, stood by the suspension. There was no official recanting until Vallières was named Chief Justice of Montreal in 1842.³¹

The Council also offered opportunities for carrying out the constitutionalists' aim of rationalizing the province's system of roads and waterways. At the end of the first session Colborne requested the Council to suspend its ordinary rules of procedure to consider a petition from the Montreal Committee for Trade for a new survey of Lake St. Peter. This broad, shallow stretch of the St. Lawrence above Trois Rivières was one of the obstacles to efficient use of the port of Montreal. The rules were suspended, the petition considered, and five hundred pounds voted for the survey.³² Montreal was Colborne's capital primarily for military reasons, but the work of the Special Council clearly favoured it at the expense of the rival port of Quebec.

On the Special Council's first meeting, the Montreal Gazette fired off a salvo against the provisions of its constitution which forbade it to raise new taxes, and therefore offered little hope of clearing up the long and

unjustifiable backlog of legislation on education, canals, harbours, and the general encouragement of commerce and agriculture.³³ Colborne's first temporary Council managed to pass in three weeks four measures of great interest to the Montreal Merchants. No. 14 granted a new charter to the Bank of Montreal; No. 25 gave corporate status to the Bank of British North America, a new institution to supply the lamentable want of exchange facilities between the main colonial cities and the commercial centres of New York and London. Ordinance No. 26 provided £500 for the survey of Lake St. Peter, and No. 23 authorized a loan of £40,000 to push forward the development of Montreal's harbour. Durham published on 28 June, 1838 his intention to proceed with various public works, but nothing came of the promise. Colborne's second session did no more than grant £20,000 to continue existing projects. Another of Colborne's important acts was to wind up the old custom of managing public works through ad hoc boards of commissioners, by instituting a Board of Works. This body, the ancestor of the modern Department of Public Works, was set in operation by Thomson before the reunion.³⁴

Meanwhile, pressure was increasing on the Colonial Office to permit the Council to create new taxes. Durham deplored the "laudable forbearance" of Parliament in restricting taxing powers. He was particularly irked by the Council's inability to create municipal bodies with taxing powers. Late in January, 1839, Colborne instructed the Executive Council to prepare ordinances on a number of subjects including public works. "With returning tranquillity, it is justly expected that the measures to which I advert will be speedily carried into effect preparatory to the changes of a more difficult nature, which may be proposed for the permanent government of this Province." He transmitted to London a month later the Executive Council's report, strongly

endorsing its request that the Special Council should have enlarged powers.³⁵ When Lord Normamby presented a Bill to amend the powers of the Special Council, he drew heavily on these despatches to defend the increased authority; his bill permitted the Special Council to create only such taxes as would be paid directly to the commissioners or local authorities for the works specified in the taxing ordinances; the Council was still forbidden to create general revenue taxes. Despite a new attitude of cautious scrutiny in the House of Lords, the Act passed virtually intact. Colborne had already been privately assured of the powers he wanted, and legislated much more aggressively for public works during the third session of his Council.

Poulett Thomson arrived to take up the Governorship in mid-October 1839. At first he expressed horror at Colborne's prolific expenditures:

I have not a sixpence in the Treasury, and no means of raising anything for any public purpose. It is impossible almost to believe the mismanagement of Sir John Colborne in all money matters. He threw away money right and left upon the most absurd undertakings.... I have had to legalize expenditures of his... to the extent of 50,000L!!
Nearly half the revenue of the Province.

Thomson's own rate of expenditure did not differ markedly from Colborne's, and apart from a few projects such as a prison and lunatic asylum completed under Colborne's appropriations, Thomson continued all his predecessor's "absurd undertakings", and praised himself for it.

Lower Canada... is not worth the least care or trouble. A miserable fringe of worn out land, inhabited by a lot of ignorant and illiterate Frenchmen... There is not a man, English or French in the Province who has a political opinion, or aims at anything but

oppressing or vexing the other race. So I go on my own with them, and improve their laws and their roads after my own fashion.³⁶

Needless to say Colborne had not depleted the provincial funds for his private amusement. Many of the colonists' ambitions were made possible through votes of money or loans authorized by Colborne's and Thomson's Councils, but the St. Lawrence canal was not touched, partly because the Upper Canadian end of it was in financial disorder. Apart from the public improvements which were authorized, private transport ventures -- three railways and the private toll roads -- were authorized during Thomson's régime with a total authorized capital near three hundred thousand pounds. Water transport was improved from the Gulf of St. Lawrence to Montreal, and from Lake Champlain to the St. Lawrence. Several ordinances were passed banning the old-fashioned local sleighs which were notorious wreckers of winter roads; toll roads and bridges were built, raising loans on the security of future tolls.³⁷ The colony did not shackle itself with debts as Upper Canada had done -- that had to wait until after the union -- but a large part of the backlog of public improvements was cleared up with remarkable speed, considerable expenditure and some optimistic borrowing during the three years of the existence of the Special Council.

The Council did not merely charter banks and improve roads; it also intervened in the fundamental workings of civil offices, and in many social and economic relationships. It provided the colony's first efficient bankruptcy law, and altered the relations of a family with its land by civil code amendments related to the registry law. The list of such changes defies summary and is much too lengthy to be expounded in detail. But it is important to note that the bulk of these changes neither defied the will of the people nor spent public money for the benefit of minorities.

Number and Date	Purpose	Sum voted	Loan Authorized	Notes
<u>SIR JOHN COLBORNE</u>				
21 4.v.38	Montreal common gaol	647		a
23 5.v.38	Montreal harbour improvements		40,000	
26 5.v.38	Lake St. Peter survey	500		
85 8.iv.39	Sherbrooke Court House	3,300		b
100 11.iv.39	Roads and bridges	9,262		
	Canals and navigation	10,437		
	Hospitals	2,300		
	Miscellaneous	2,375		
108 11.iv.39	Chambly Canal		30,000	b
Sub-totals -- Colborne		28,821	70,000	
 CHARLES POULETT THOMSON (Later Lord SYDENHAM)				
118 13.v.40	Extending No. 23		28,000	c
126 13.v.40	Extending No. 108		5,000	
163 15.vi.40	Roads, Montreal district		35,000	d
169 29.xii.40	Navigation aids below Quebec		5,000	
171 31.xii.40	Extending No. 163		12,000	
176 21.i.41	Extending Nos. 23,118		17,000	c
180 27.i.41	Roads, Montreal-Chambly		15,000	c,d
181 30.i.41	Roads, Quebec district		25,000	c,d
184 30.i.41	Court houses and gaols throughout Province	50,000		b
191 6.ii.41	Public building for civic purposes, Montreal		50,000	c,e
193 6.ii.41	Temiscouta Road	5,000		f,b
Sub-totals, Sydenham		55,000	192,000	
TOTALS		83,821	262,000	345,821

Notes:

- Appropriation to cover bills for work already completed.
- Not more than 50% to be spent/borrowed during twelve months after passing of ordinance.
- Authorized to borrow at interest above legal rate of 6%.
- Loan secured on tolls or other similar revenues of completed work.
- Loan secured on property of the Corporation of Montreal.
- Supplemented by 3,000 voted by Colborne's No. 100.

Appropriations and Loans authorized by Special Council,
1838-1841.

Some of the reforms did meet the needs of the temporary crisis. Colborne praised an ordinance to regulate taverns -- they were nests not only of vice but of disaffection. Also timely was the adoption of a system of police. This was recommended intermittently in the decades before the revolts, but Durham took the first decisive step towards providing regular day and night patrols in the two major cities in June, 1838. (Ordinance no. 28). Colborne steadily increased the system, frequently using army officers as stipendiary magistrates to hasten the provincial police into existence. Thomson remarked in his usual kindly spirit, "By the bye, the only sensible thing which Lord Seaton [i.e. Colborne] did here was to commence the organization of a rural Police, which I have greatly extended and shall shortly make general." By 1841 most districts had local police forces.³⁸

Municipal government was seen as another essential part of the reorganization of Lower Canada, since a host of local improvements could best be advanced by local taxation. Ever since Dalhousie's day municipal government had been looked upon not only as useful in itself, but as a means of assimilating the Canadiens to English habits by making them familiar with elective politics at a level where "the evil result of every lazy or interested choice, could appear upon the voters in a palpable and corporeal shape."³⁹ The Gosford Commission and Durham's investigators paid considerable attention to municipal government but nothing was accomplished until Thomson arrived. Apart from re-incorporating Quebec and Montreal with charters imitating English models, he had lengthy ordinances drawn up for rural councils. Thomson believed that the forthcoming union legislature could not be trusted to erect local bodies which would limit legislative patronage in the form of roads and bridges. The municipal ordinances were passed by the Special Council in December, 1840. They created rural parish and township governments,

but withheld superintending powers in the hands of the central government, "partly out of respect for the prejudice of those who balked at dangerous democratic innovations", as Thomson's biographer wrote, "and partly that the central government might hold the leading-strings while the infant municipalities learned to walk."⁴⁰

Not all the government's measures proceeded satisfactorily. Enormous energies were spent in trying to rationalize the currency system, which was in great disorder because of the profusion of foreign gold and silver circulating in North America at different rates of exchange. Since specie would always migrate to where it was over-valued, and since the banks were compelled to redeem their notes in specie (except intermittently during the commercial crisis of 1837 and the political disorders of 1838, when the patriotes started a run on the Bank of Montreal) unilateral action by the Special Council could accomplish little. All that really succeeded were a law forbidding circulation of spurious copper coinage, and another forbidding note issues smaller than one dollar (five shillings) which were regarded as Peter McGill's private offensive against his fellow Councillor John Molson, and Augustin Cuvillier, whose family firms were responsible for a lot of the small notes in circulation.⁴¹

A more signal failure of the Special Council came in the vast field of judicial reconstruction. The courts of the Province were gradually grinding to a halt from the practice of referring all cases, no matter how small, to the same judges; courts were still centred on three towns and the occasional appointment of Commissioners for Small Causes merely acknowledged the evil without providing a permanent remedy for it. An appeal court had long been wanted. The most immediate and uncontroversial shortcoming -- local justice for small causes -- was swept aside by Colborne, but a less happy fate awaited the compendious reconstruction

proposed by Chief Justice Stuart. He proposed to separate criminal from civil courts; but the new Courts of Queen's Bench, with original jurisdiction in criminal trials, would double as appeal courts in civil matters. This ordinance was highly unpopular among the colony's lawyers of both origins, who argued that a suit in the lower court would be merely a prelude to a decision at the higher level. The ordinance was never proclaimed; it was allowed to die quietly in 1842.⁴²

The Special Council did not achieve all that its constitutionalist progenitors desired of it. The judiciary was not substantially reformed, and nothing was done on the St. Lawrence canal. Several administrative reforms, such as the revision of the office of sheriff, were probably pressed on Colborne more urgently by the law officers and other officials than by the merchants -- the interests of the two groups were not identical. But the two favourite reforms of British Lower Canadians were accomplished by the Special Council. These were the establishment of registries of land titles and encumbrances, and the abolition of seigneurial tenure on the island of Montreal; these two, together with the Council's most famous ordinance, deserve separate consideration.

iv

The Special Councils of Lower Canada passed 197 ordinances. The first of three deserving individual mention is Durham's No. 28, which exiled eight rebels to Bermuda and forbade 16 others to return to Canada on pain of death. Gosford and Colborne wisely feared that regular juries would acquit the rebels, and Glenelg forbade Durham to create special tribunals. Instead the Governor sent Charles Buller and John Simpson to Montreal to confer with the leading rebels

in gaol. After two meetings eight rebels signed a document which scrupulously avoided a confession of guilt, but expressed willingness to submit to exemplary punishment in return for an amnesty for 140 other prisoners. Durham, with the consent of McGill and Gerrard, took the poisoned bait. Surely Durham doubted his own measure, for his report to Glenelg on 29 June concealed important features of the truth; Durham richly deserved the rebuke he later received from Melbourne, that "you never transmitted to us any copy of their plea of guilty, or of their confession.... The prisoners themselves had furnished Roebuck with all these particulars, which were immediately conveyed to Brougham."⁴³ Lord Brougham introduced a hostile Bill which cleverly protected Durham from retribution by the prisoners while condemning his ordinance as illegal. Durham was already in bad odour with Parliament for his expenses and his patronage; the ministry might have risked defeat to regularize the ordinance, but this would have been no help to either Durham or Canada. The ordinance was disallowed.⁴⁴

One piece of business abandoned when Durham hastily quit the colony was settlement of the Sulpician's title to the seigneurie of Montreal. Altogether there were four efforts after 1835 to resolve this issue -- one by Gosford, one by Buller, a provisional ordinance by Colborne's Council, and a final one by Thomson's. A few principles were common to all: the Seminary received a corporate character, with title to its three seigneuries. In return, it had to permit every censitaire in Montreal to commute his tenure to a French version of freehold tenure, on payment of a mutation fee and arrears of seigneurial dues. There were few important differences among the four plans, but the most lenient was Colborne's, which was essentially Buller's plan as modified by a sub-committee of McGill,

de Rocheblave, Neilson, Gerrard and Quesnel. Durham urged the Colonial Office to have Parliament enact Colborne's ordinance, but Lord Normanby sent it back to Canada with Thomson. Under new rules allowing publicity to ordinances, the plan whipped up a storm of protest in Montreal, largely from the old "religious liberty" faction, and Moffatt and John Molson forced through several amendments before voting against the ordinance altogether. The seminary was compelled to sell off a large farm in Montreal, to invest its surplus capital in the British funds, and to hold its other properties subject to scrupulous fulfillment of its educational and charitable duties. The ordinance passed on 8 June, 1840, and within a year Thomson happily reported that large blocks of land had passed into freehold tenure, including the property of the most ardent opponents of the ordinance.⁴⁵

The registry ordinance solved another intractable problem. There was no simple means for a prospective buyer to determine whether a property was mortgaged or encumbered by the myriad unwritten claims created by the colony's family law. Any debt a man incurred encumbered all his property indiscriminately, and a wife's customary dower was entailed on her children. If these matters were written down at all it was in the secret files of one of the province's 250 notaries. The Gosford commission very frankly endorsed the constitutionalists' view that patriote lawyers and notaries inhibited public registries to protect their incomes and deter immigrants from settling in the seigneuries; it was "unsafe either to buy real estate or to lend money on its security in the Province." Buller made a weak attempt to draft an ordinance cutting through these knots; a sub-committee of Colborne's last Special Council agreed on the need for an ordinance to register all titles, abolish notarial secrecy and customary dower, and to make mortgages

"special" to individual pieces of property. Eventually Thomson got an ordinance passed on the eve of the Council's dissolution. "It is a subject so interwoven with Old French Law, and the habits of the people under it, that I do not profess to understand it.... It is [James] Stuart's work."⁴⁶

v

The Special Council came to an end with the reunion of the Canadas on 10 February, 1841. In fact the Council's deliberations postponed the union for about a month, since Thomson kept it in session to deal with everything he was afraid to entrust to the new legislature -- public works, the judiciary, and registries. At various times both Colborne and Thomson expressed privately a conviction that Lower Canada would profit from a further ten years' government by such a body, but there were obvious impediments to such a course.⁴⁷ The constitutionalists frequently expressed their desire to return to representative government, provided there would be an English-speaking majority in both legislative chambers; the Canadiens hated the Special Council. In Britain, the government and Parliament were committed by mid-1839 to joining the legislatures and executives of the two Canadas. There was really no question of the Council's long surviving the military emergency.

The Special Council was created by the whigs in 1838 to avoid the embarrassment of legislating in England for the internal affairs of a colony; but the Colonial Office was soon carried along by the constitutionalists (and the second rebellion) into letting it enact a systematic revision of many of the colony's laws and institutions. And although close scrutiny was established over all the Council's ordinances remarkably few were disallowed and after Durham's

débacle only one measure was seriously controverted in Parliament. The reactionary Bishop Philpotts of Exeter tried to have the Sulpician Estates ordinance disallowed, but got little encouragement even from other tory Lords.⁴⁸ If Durham had retained Colborne's Council he might have dragged it down in his fall; but his interlude merely showed that the most vocal elements in the colony wanted a strong local government and would be furious at further meddling by British partisans. After Durham, the British government and Parliament did little more than keep an eye on the legality of the Special Council's acts; and the colony flourished.

The return of prosperity after 1838 and the rapid progress of improvements under the Special Council should not be allowed to obscure the hatred which many Canadiens felt for it. The Councillor Joseph Dionne was reported to be afraid to travel in his own district; his best friend cut him and his horses were mistreated by his neighbours. Another Councillor, C.E. Casgrain of Kamouraska, was painfully conscious of the contradiction between his election to the Assembly in 1830 and his vote to suspend habeas corpus in 1838. Canadiens bracketed the existence of the Council with martial law, mass arrests, and the volunteers' burning of rebel villages as odious specimens of tyranny. Poulett Thomson had no chance of winning French Canadian support because of the peremptory way he summoned the Council during the first winter storms of 1839, mustered little more than a quorum, and set the members to work on resolutions affecting the most serious questions of the colony's constitution.⁴⁹ The anti-unionists thereafter appealed to the Colonial Office for the disallowance of twenty ordinances they considered objectionable to the rights of the people or the interests of the province. But constitutionalists were happy; the Montreal Gazette spoke for them four days after the Council's demise.

Fortunately for the Province, the improvements and ameliorations which that body [the old Assembly] always declined to sanction, except upon their own terms of fundamental opposition to the Mother Country, have been accomplished by a less popular or democratic Legislature, to be sure, but certainly a far more patriotic and intelligent one, enjoying the respect and confidence of every individual in the country, who wished to behold the shackles and barbarisms of feudal institutions, entirely, though gradually, removed from the presence of BRITONS.⁵⁰

PART IV

Chapter 10 Racism, Assimilation, and Reunion of the Canadas

i

Every conflict in Lower Canada between the relative newcomers and the descendants of the original inhabitants, also brought closer the reunion of Upper and Lower Canada. Independence was a chimera; after 1830 only three possibilities might have allowed Lower Canada to remain separate. A radical ministry in London might have emancipated the colonies, leaving French Canadians perhaps to retain their existing boundaries; but no such ministry came close to taking office. If Britain had lost Canada in a war with the United States, there might have been a similar result, though the radical Drolet was probably closer to the mark when he wrote from exile in the U.S. of the horde of vultures who would have turned Canada into another Texas "si nous eussions acquis notre indépendance en 1837 ou 1838."¹ But in any case the Americans were easily dissuaded from invading Canada after 1815. Finally, a peaceful, local resolution of the conflict between Briton and Canadien would undoubtedly have left Lower Canada a separate colony, continuing to tread the narrow path where economic expansion was compatible with social conservatism. But the nervousness and ambition of both sides doomed such a reconciliation. As long as French Canada's survivance was deemed an asset to Britain's military security in the North Atlantic and North America, the balance tilted in favour of social conservatism. But agrarian over-population in Britain and Ireland, with five years of political disorder and two rebellions in the colony, changed the balance unequivocally. The Canadiens had long been seen as a clog

on commerce; now they were a threat to security as well. Whatever interest Britain had in conciliating them seemed to blow away with the first puff of smoke from musket-barrels along the Richelieu River in November, 1837.

Massive immigration to the Canadas in 1829-34 made the crisis acute. Papineau had plausible reasons to believe that the Canadiens could not trust to placid co-operation, and this left them with three choices. They could cling to their culture and ignore the challenge of Anglo-Canadian capitalism, in which case they could become in time a landless proletariat, a lower caste. Or they could resolve the contradictions, shedding their past and smoothly integrating themselves with the newcomers, who had superior contacts with the outside world. Third, they could practice social, economic and political separatism, sacrificing the material advantage of participating in the British market system for the emotional satisfaction of preserving cultural continuity. The first option was clearly repugnant, and Papineau used the spectre of economic subordination to keep his followers from becoming complacent. Assimilation was the course Papineau's rivals urged on the Canadiens, but pride and mistrust led him to reject it. With Adam Thom fulminating in the Montreal Herald and Ryland's plots of long ago still remembered, how should the Canadiens have reacted to James Stuart's vision of a new Canadian nationality, neither French nor English nor American, or to William Walker's invitation to "constitute ourselves one people"?² Were they sincere, or were they cunningly inviting the French Canadians to leave themselves without protection? And even if these offers could be trusted, could a Canadien retain his self-respect while accepting the gift of a conqueror, or should he strive to ensure that no change was accepted except as the free choice of a free people? Many, like Cuvillier and Sabrevois de Bleury, were willing to accept the gift, but

many more followed Viger in believing it should always be rejected.³ That left Papineau with the third course -- systematic opposition to integration of Lower Canada into the political and economic system of the British empire. Deeply concerned for the future of his people and regarding the newcomers as a Trojan horse, Papineau clung to his traditions and shed his upper-middle class followers as he trod the road to rebellion and defencelessness.

ii

The point should not need to be laboured that assimilation was not a racist goal, nor could it have been founded on racist assumptions. Yet Canadian historiography tends loosely to equate the two. This is partly due to a lax interpretation of the word racism. Attempts to distinguish national or racial characteristics -- and to say which were better -- are at least as old as Aristotle, and Englishmen in the early nineteenth century debated whether institutions or physical environment had the greater influence on national character. Political stability and material progress were the yardsticks used to measure superiority in Britain, and by these standards Britons rated themselves extremely high, certainly higher than the French. Much of this ebullient cultural chauvinism was transferred to Lower Canada, and flourished there where the two races lived close enough together to be acutely aware of each other's faults. But none of the expressions of this needed to be racist, for racism entails the belief of one group that the other is irretrievably inferior. The assimilationist, on the other hand, believes that the differences are accidental and should be dissolved.⁴ These arguments were applied to the Canadian situation in 1971-72 by Peter Burroughs, and ought eventually to eradicate the slipshod use of the more colourful term "racist."⁵

But these remarks apply to the Richardson-Moffatt school of assimilation thought, which inspired the passages of Lord Durham's Report portraying the dull past, shabby present and parlous future of la nation canadienne as a unique cultural group. It was not only the merchants' chauvinistic paternalism that evoked the loathing of the patriotes and the frightened state of their followers. Adam Thom of the Herald was the favourite of the mob, so much encouraged by public adulation that one of Durham's informers reported that "the man can't help doing these things, and has become so spoilt from habit that he does not know now when he sins." Those "things" included a passage in the Anti-Gallic letters proposing that "to be at peace we must make our own solitude; we must sweep the French-Canadians off the face of the earth."⁶ An anonymous pamphlet issuing from the Courier office addressed itself even more closely to the question of racism and assimilation in 1835. After condemning the patriotes and their electors for clinging to "all that was mean, subservient, and ignorant", the pamphleteer disposed of the prospects for assimilation:

There cannot possibly exist in nature, morals, or politics, a more complete system of antipodes than that which characterizes both English and French of every denomination.... They are not to be amalgamated. There is no power in the world, either moral or physical, that can ever compel them to act in unison, or upon one general sentiment or principle.⁷

This contained an environmental, rather than a biological explanation of permanent inferiority. Along with the more familiar forms of assimilationism, such feelings would appeal strongly to the lower classes of British Lower Canadians for two reasons. British or Irish origin and the experience of recent immigration gave all English-speaking colonists an ethnic cohesiveness that could over-ride class;

and because of the broad franchise and survival of the land tenure and civil law of the ancien régime, the struggle against the patriotes could be portrayed as a struggle not to establish privilege, but to undermine it.

In preceding chapters, the story of conflict and manoeuvre between the main cultural groups of Lower Canada has permeated the narrative.⁸ But the present study is not merely a social history of Lower Canada, it is a study of the interplay between colonial events and British opinion. From 1823 to 1839, ^{accelerated} anglicization of the French Canadians received little more than lukewarm support in influential British circles. In 1828 the Canadian question took on a constitutional guise, not a cultural one. The liberals in the House of Commons championed the discontents of the Canadiens as symptoms of corruption and inefficiency at the Colonial Office rather than of tensions between incompatible social systems in the colony itself. During the 1830s it became evident -- Stanley was an early convert -- that efforts to treat the issue as one between the oligarchy and the people were not getting to the root of the trouble. Although British Tories continued to fulminate against treason and republicanism, the Whigs, who knew the problem from the inside, were more inclined to blame the strife on the ambition of the Canadiens to control the pace of social and economic change. The Whigs, diagnosing an ethnic cause ~~to be~~ for a constitutional disease, compounded a cure which they hoped would settle both. Their answer was to reunite the two Canadas so that no French Canadian party could ever strangle the colony's legislature unassisted.

Such a policy could pass through Parliament, despite the longstanding reluctance to tamper with a colony's internal affairs, because a widespread opinion had grown up in Britain that the Canadiens were not fit for their representative institutions. Lord John Russell introduced the reunion bill of 1840 with a typical statement of this wide-spread feeling:

while they used all the weapons of freedom... [the patriotes] were using those arguments in order to establish a gross monopoly in the hands of their own race.... The Assembly used the weapons of Hampden, in support of the principles of Wentworth.... For these evils -- for this evil spirit -- there seems no better remedy -- if we agree that Canada shall have a free Government. There is no more obvious or safer mode of proceeding, in order to put down this system of monopoly and exclusion, than to admit the inhabitants of both countries to send members to one Legislature, leaving the French race to be represented by persons of their own opinions, but depriving them of that preponderance of which they made so ill an use.... and give free scope to British enterprise and emigration, without subjecting the French to any degree of oppression.⁹

It had ceased to matter to most of British opinion whether the Canadiens' struggle was a political protest against the composition of the Legislative Council or a systematic opposition to improvement. The patriote Assemblymen had some constructive plans, chiefly for promoting education, but the apparent purpose of their struggle for legislative supremacy was virtually achieved by 1820 -- to diminish the significance of the colonial administration and to stifle social and economic change at the legislative level. But the patriotes, sheltering behind their huge electoral majorities, failed to carry any significant numbers of English-speaking colonists with them. They tried to extort self-government through republican forms the British Parliament would never grant, and so made an issue of republicanism rather than of mal-administration, and of race rather than of reform. By drawing Parliament into the fray the patriotes assured their own downfall.

The most enduring thought in Britain on change in Lower Canada was that it was bound to happen. British emigration, Upper Canadian ambition, and American competition would ensure that no enclave of French-speaking farmers could form a viable society on the banks of one of the great river-entrances to the continental interior. Edward Ellice put this view forcibly to the Select Committee of 1828:

I should be as adverse as anyone to deal forcibly with the prejudices and feelings of the Canadians, who certainly are attached to, and imagine themselves interested in, the preservation of their present system, still, as a matter of necessity, time will so deal with them, unless they can accommodate themselves to a gradual amelioration."

James Stephen told the same committee that "I think that the comparative depression of the French, at no very remote period is inevitable. They will sink under the weight of the English, or of the Anglo-American influences in these provinces."¹⁰ The expectation of gradual change emphasizes a second point about the attitudes of British statesmen: their deep aversion to forcible measures against the Canadiens' distinctive cultural characteristics. This of course explains the prevailing reluctance in Britain to admit that the struggle had racial rather than constitutional roots. Although Durham reported after five months in Canada that the disputes were cultural, the Gosford Commission in 18 months during quieter times reached the opposite conclusion, and ^{Gosford from his} ~~two commissioners~~ ^a ~~who had seats~~² in Parliament in 183~~3~~⁴-40 made ^a spirited efforts² to discourage the notion that remedies to political strife could be sought in forced cultural assimilation.¹¹ In January 1838, after the first rebellion, both whig and tory leaders warned that they contemplated strong measures, but would not abrogate the basic cultural and religious rights of the Canadiens. This attitude was fundamental to the thinking of all but a few hotheads. If social change was inevitable in Lower Canada, it was the British government's

task, in justice as well as expediency, to see that the Canadiens' traditions were let down lightly.¹²

This reluctance to interfere forcibly explains the great interest the Colonial Office showed in the 1830s in schemes of federation or of redividing Lower Canada afresh. One such plan was actually adopted and drafted into a bill early in 1837 before Glenelg got cold feet and determined to try another attempt at propping up the old constitution.¹³

Lord John Russell, in recommending the principle of reunion in 1840, went into detail on the question of federation or re-division, ending with the reflection that no matter how new boundaries were drawn a small British community would remain to be harassed within a larger French one. Russell found this harassment entirely understandable, if distasteful from his own viewpoint. On this basis Russell denounced Pitt's policy of dividing the Canadas, and the unstated assumption was that the majority was less likely to oppress the minority, if the majority was as self-confident and undefensive as a British population could afford to be. No-one in Parliament argued against Russell's belief that the union should be effected "without subjecting the French to any degree of oppression", or with Lord Ellenborough, who expressed relief that "their religion, their institutions, and their establishments would be preserved inviolable" under the Act of 1840.¹⁴

British legislation on the union fell far short of encouraging one race to oppress the other. Horton's bill of 1822 had offered Lower Canada a majority of seats in the united legislature and guaranteed this would never fall below half, even when the population of the lower province lagged behind that of the upper. On the other hand this bill planned to proscribe the use of French in legislative debates after 15 ^{years} ~~months~~, which Russell's proposals never did.¹⁵ The Union Act of 1840 established equality of representation, which was to the temporary disadvantage of Lower Canada, but made only a symbolic gesture against the French language,

making English the language of official summons and of record in legislative (but not in judicial) proceedings.¹⁶ The Act of 1839 extending the Special Council's powers explicitly forbade interference with seigneurial tenure except on Montreal Island, and this provision was considered essential by Peel as well as the whigs.¹⁷ Neither Horton's union bill nor Russell's Act threatened seigneurial tenure or the coutume de Paris, unless the whole majority of British members should unite against the large minority of French. Such a coalition was as improbable in theory as it proved in practice, for it was unlikely that the French would entirely abstain from alliances with members of other origins, while at the same time making themselves so obnoxious that a large body of Upper Canadians could be brought to meddle in the civil law of the eastern half of Canada. No such alliance ever existed. In the House of Lords in 1840, the Marquis of Lansdowne accurately predicted that the English-speaking majority would not be unjust, so the French were sure "to make progress and gain ground, and thus take a share in the general conduct of affairs." In the same debate Lansdowne and Ashburton commented on the viability of bilingual legislatures in Holland, Belgium, and Switzerland. In the Commons, there were loud and angry denials from the ministerial benches when O'Connell denounced the reunion as an effort to annihilate the French Canadians as a separate race.¹⁸ It is unreasonable to assign to all the whigs Lord Durham's view that reunion and assimilation would go hand in hand, especially since the whigs were unwilling to try the broad constitutional concessions which Durham declared an essential foundation to his optimistic prediction of smooth assimilation. It seems improbable that British statesmen, with the example of Ireland always before their eyes, could expect parliamentary union automatically to produce cultural harmony, or penal laws to bring easy integration, even though Canada's "Ascendancy", unlike Ireland's, would be neither a minority nor a land-

owning oligarchy. One must therefore look for other, more fundamental causes inspiring Parliament's decision to enact the reunion.

iii

One obvious purpose of the union was to meet the legitimate grievances, and the need for growth, of Upper Canada. Russell originally intended to tell Parliament the chief advantages of the measure were its giving a seaport to Upper Canada and a free government to Lower Canada; Hobhouse convinced him that pairing two such disparate goals sounded ridiculous, but Upper Canada's interests seldom received a better airing in Parliament than when reunion was discussed. The upper province had ambitiously pushed forward with improvements to the St. Lawrence above Montreal, designed to undercut the Erie Canal's dominance of the Great Lakes trade. This had run the colony into debt without any assurance that the lower stretches of the navigation would be improved by the French-Canadian province. Upper Canada and the holders of her numerous debentures were anxious to have this investment justified by the completion of the project -- a completion which would, after all, benefit Montreal at the expense of her old rival New York. This emphasis on the needs of Upper Canada also drew attention to the Canadas as a unit, where the British settlers were already a majority, and to the interests of emigration, which had passed the Canadas by almost totally in 1838.¹⁹ It seemed almost unthinkable that a French-Canadian Assembly in the Lower Province would ever consent to the measures which Upper Canada needed to satisfy her own ambitions.

An even more compelling reason for the reunion was military security. The lively interest which the border population of the United States took in the Canadian crisis, and the simultaneous skirmishing on the boundary between New

Brunswick and Maine, convinced most Englishmen that there might be war if the two Canadas were not pacified at once. Poulett Thomson believed that no such war could last two weeks beyond the meeting of Parliament or of Congress, and Lord Ellenborough brooded on the fact that war "to us as to them is like the tearing asunder of the same body, so intimately united are we by Commerce." But the desire to avoid war did not imply a refusal to wage it if necessary; even as radical a politician as Roebuck was determined to keep British North America out of United States hands,²⁰ and the question therefore became the old one faced by Pitt and Fox, of deciding what elements in the colony were the strongest potential defenders of continuing British hegemony, and which the greater threat to British security. In 1791 the French-Canadians, numerically so strong, were clearly the greater danger and the more valuable ally, and a constitution was devised to suit their preferences. A half century later this was no longer necessarily the appropriate constitution to serve Britain's interests.

Ellenborough's conduct may be traced in detail to illustrate how strategic considerations could influence one man's conduct on the Lower Canadian question. Although it was common in the 1830s for domestic issues to prejudice colonial reforms -- for the state of the Lords, for instance, to make elective Legislative Councils unthinkable -- Ellenborough shed most of his domestic prejudices in response to the threat French Canada posed to peace. In January, 1838, he tried to mobilize the tory party against suspending Lower Canada's constitution, arguing that only a small proportion had rebelled out of a population previously noted for its loyal and courageous defence of British interests. His opposition was scotched by Peel, who could not risk turning the government out. Ellenborough opposed Durham's mission, feeling that the information collected by Gosford was far more valuable a reflection of social conditions than anything

Durham might find out in the heat of crisis. (Gosford, in 1840, fervently agreed, and abandoned his usual support for the government to vote against the reunion bill.) Ellenborough set down in January, 1838, the two classic tory arguments which were used against the union: it could not be effected on terms of justice to the French Canadians, and would therefore create a legitimate standing grievance; and canadien agitation would be encouraged by the reformers of Upper Canada, since the French would have a solid representation in the Lower province which could easily be joined by a few Upper Canadians to make a separatist majority.²¹

When the reunion bill came before the House of Lords in 1840, Ellenborough took the same basic ground as Lord Seaton (Sir John Colborne). The bill had passed the Commons with an enormous majority, and opposition to it now would only stir up hornets in the Canadas. So Ellenborough disclaimed the intention to defeat the bill and bent his efforts to strip away provisions which might be considered unjust to the French Canadians. He condemned equal representation for unequally-populated sections of the united province, and sneered at the odd sizes of constituencies in the lower province where it might take 6,000 electors of French origin to return a member, but only 3,500 British electors. Ellenborough leant on Durham's arguments for representation by population, earning a condescending reminder from Lansdowne that Ellenborough had been among the last-ditchers in the Reform struggle eight years before. But Ellenborough was adamant: the representation clauses of the reunion bill showed the same

spirit that dictated the penal laws against the Roman Catholics of Ireland.... He wished to act with those people [the Canadiens] on a broad and liberal principle, and not to send them into the colonial parliament with angry recollections, and feelings hostile... to the connexion with this country.²²

Ellenborough, in other words, fervently wished to deny the Americans any chance to fish in troubled waters. If this peace and security had to be bought at the price of the ambitions of British Lower Canadians, then the peace was worth the price.

Ellenborough, in taking this stand, was acting on a pessimistic view of the continuing power of the Canadiens, and an unduly optimistic vision of the tractability of their Anglo-Canadian antagonists. But once Durham had declared for reunion, it could hardly be refused. This is presumably what two of the ministers who shared responsibility for the decision, Russell and Thomson, meant when they wrote that the union was adopted because it was Durham's recommendation.²³ Lord Howick's brother, a serving military officer close to Durham and his staff, advised Howick in mid-1838 that "The English party will not be satisfied with anything short of a Union of the Provinces -- And that if they think they have just reason to be dissatisfied with what is done, there will be imminent danger of our losing Canada." After the second revolt he repeated, "There is nothing for it now but to govern thro' the British party."²⁴ Lord Seaton probably said many times in private what he wrote to Sir George Murray in 1841, that had the reunion "been postponed, or abandoned... the Montreal merchants and the British inhabitants of L. Canada would have kept the colony in a state of excitement... that must have prevented a return to Representative government."²⁵ Edward Ellice was sunk in pessimism after his visit to the colony in 1836; two years later he warned Samuel Gerrard that the situation was intractable:

An English Ministry governing by means of an English Parliament, can never propose the permanent establishment of arbitrary govt. It has therefore in your case one of two principles to decide upon.... either, to admit the English population in the U. Province, by means of an

Union, to form with that of the L. Province, a majority in the joint Legislature, & to govern wholly by the Democratic power of the Legislature - subject to the little control which in that case could be reserved to the Crown - or, to re-establish the old system of Gov., in Lower Canada, providing absolutely for a civil list, for the independent [march?] of the Executive Gov - & of the administration of justice - & deciding summarily & permanently on the two or three disputes between the races of tenures - registry &c.... In this latter case, there will still have to be provided, the means of legislating on many matters, common to both Provinces.

But a pure legislative union would be impracticable because the consent of both parties could not be obtained, and it would be inequitable to impose an "English ascendancy" if the French were willing to accept a few essential reforms and a federation.²⁶ But Ellice's plan for a federation, drafted formally in December, 1838, seemed to encourage assimilation of both the Canadas with the United States and, after finding favour with some ministers, was dropped and replaced by a scheme closer to Durham's. To the whigs, the British majority of the two Canadas was both a creative force to be encouraged and a threatening one to be placated. The Canadiens, unhappily for themselves, were seen by many British statesmen as neither much of an asset as allies nor of a danger if subjected to the "English ascendancy" that Ellice deplored. The cabinet had merely to pick the plan which best balanced the two forces. It was a comparatively easy choice, as Hobhouse foresaw in March, 1839: "We have now several plans before us, one from Ellice, one from Mr. Robinson, one from Ld. Howick, one from the Colonial Office, one from Russell and also Ld. Durham's scheme. I think we shall choose Russell's." Russell's, which evolved further after his appointment as

Colonial Secretary in August, 1839, was essentially Durham's with two changes. First, it contemplated consultations in the colony to ensure that the British colonists were really getting what they wanted and the French what they could tolerate; and second, it eventually modified the representation to give the Upper Canadians immediate parity, thus shedding Durham's assumption that Britain could mollify the Canadiens merely by enlarging the fund of public patronage and establishing a faster rotation in the highest offices. Russell's measure was not enough to gratify the most rabid British at Montreal, but was sufficient to win the co-operation of most of the creative forces in the reunited colony.²⁷

iv

In this brief survey of British politicians' attitudes towards change in Lower Canada, it appears that anglicization of the French Canadians was at most a secondary policy. There was a general, uninformed tendency to regard anglicization as something that need not be rushed because it was going to happen anyway; and an even stronger feeling that it could not be rushed, because that would replicate Britain's Irish experience, reviving the worst sorts of narrow sectionalism; it might also start a war with the United States.

Assimilation was at most only one of many ends Britain was pursuing in resisting the Canadiens in the 1830s and reuniting the Canadas in the forties. This does not disprove the existence of assimilationists in Britain, and some obvious ones can be named -- Ellice in the twenties, and Durham, Charles Buller and C.P. Thomson in the late thirties. What is striking about the handful of prominent men who gave a good deal of thought to the matter and believed the Canadiens could be assimilated through the reunion is that they stood well over on the reforming side of the whigs, or were actually radicals. But most philisophic radicals and

O'Connellites, who relished democratic and nationalist movements, did not share this aspect of liberal thought. This study has not relied on quotations from Durham because he drank deeply from the poisoned well of Thom and Moffatt, and personal pique may have coloured his gloomy view of racial divisions in the colony. A more reliable witness, perhaps, is Charles Buller, who championed the Lower Canadian Assembly before he went to Canada but returned to England a determined reunionist. An exchange in the House of Commons between Buller and John Leader illustrated the difficulties liberal thought encountered in meeting the Canadian crisis. Buller spoke first:

Those who had looked into the laws and institutions which the French Canadians had derived from the worst monarchical times of France, must be well aware, that instead of leading them on in civilization, they were calculated to leave them degraded and enslaved. He conceived that the French Canadians ought to be treated as British subjects, and put in possession of all the immunities and rights of British subjects. They were at present the poorest class of the community; they had been gradually losing their property, which had passed into the hands of the British race, who were the rich merchants and great proprietors of the land, and the governing classes. And was it for the benefit of the country that the masses of the people should speak a language different from that of the governing body and the people of property? Or was it not rather the very course to reduce the people to slavery and thorough degradation? If we would make them civilized and free men, we must put them on an equality with the rest of the population, and we must have them speak the language and be

partakers of those institutions which were the language and institutions of every free man in North America.

Buller evaded rather too smoothly the appeal to the Canadiens of the separatist option, which would also have removed the cultural division between the people and the élites. He was answered by another of the philosophic radicals, John T. Leader, who retorted that the union would not raise the French Canadians, but leave them "completely crushed":

The hon. and learned Gentleman said, they must adopt the language, laws, and religion, too, he supposed, of the governing few.... Unless they could be convinced that it was a benefit, it would be the grossest tyranny, to make them English in language, laws, and religion.

The line of reasoning appeared to be that the beavers, being less intelligent than the Indians, had been pushed out; and the French, being more intelligent and better organized than the Indians, had pushed them out. Now it was the French habitants' turn to yield to the Anglo-Saxon.

The French Canadians, being the weaker, must submit; it was a law of nature. That might be very true; but it would be a disgrace to that House, if by any act of legislation they gave additional power to help the strong to crush the weak.²⁸

This was, of course, a question that had puzzled British liberal thought for generations; it had led Milton and the Parliamentarians reluctantly to the conclusion that it was doubtless more just for an enlightened minority to compel a majority "to retain... their liberty, than that a greater number, for the pleasure of their baseness, compel a less most injuriously to be their fellow-slaves."²⁹ The ultimate question for liberals in Britain was whether the French Canadians were making their British compatriots share a species of slavery, and if so, how to correct the situa-

tion. Buller, like Durham, looked at the steady accumulation by the British colonists of commercial eminence and ownership of seigneuries, and concluded that the progress of the Canadiens as individuals would be held back by their collective conserving of their culture. This was especially so since recent efforts at survivance had involved the harassment of the more liberal minority by the illiberal majority. But there were no clear-cut party lines on reunion and assimilation among the radicals and the more liberal whigs. Lord Howick, like Ellice, preferred a federal union which would leave the Canadiens in control of their local institutions after these had been updated by the Special Council; on the other hand, Edward Gibbon Wakefield, one of Durham's aides in Canada, supported the reunion, then went back to Canada to advise the Canadiens on electoral and legislative tactics to avoid assimilation.³⁰ Not all liberals believed in anglicization; and not all the assimilators believed their ambitions could be realized merely by reuniting the Canadas. But the ardent assimilationists can generally be identified as liberals with first-hand knowledge of the colony and its troubles.

This statement involves some paradoxes, including the one indicated above -- the distaste liberals felt for forcing people to be "free". The basis of assimilationist thought was the assumption that British habits and particularly commercial and industrial enterprise were superior to those of other countries, and especially to an archaic patchwork like the social, legal and economic structure of French Canada. A firm faith in British superiority was, to British statesmen as well as to Anglo-Canadians, the keystone of belief in assimilation of the Canadiens. And if mankind were rational -- a good liberal view which Tories were less eager to share -- then the French Canadians would only have to live among a growing British community in order to be convinced of this superiority too. Many whigs and radicals

believed this in the early nineteenth century, just as Fox had done in the late eighteenth. This attitude underestimated the strength of the Canadiens' attachment to their own culture, overestimated the rate at which Lower Canada would fill up with British emigrants, and misjudged the extent to which an agricultural society needed to modernize itself in order to remain viable, provided that society did not become unduly materialistic and would tolerate the exercise of higher economic functions by others. The assimilationists, significantly, were conspicuous reformers in British politics. Accustomed to reshaping their own institutions, they were blind to reasons why Lower Canadians would not sacrifice theirs. (Russell never made this mistake, though he naturally disapproved of the results of what he considered honest but misguided patriotism.) The assimilationists' confidence rested in the over-riding spirit of improvement in Britain, and not in any narrow view of British society at a single moment; and it was the spirit of improvement which seemed most stifled by Canadien particularism. In the same way that a Scottish liberal like Adam Ferrie could become a staunch francophobe and iconoclast in Lower Canada, so it was easy for the assimilationist idea to persist in the small band of liberal Englishmen with first-hand experience of the colony, while it grew shallow roots, if it took root at all, in other sectors of British opinion.³¹

Chapter 11 Lower Canada and Imperial Interests

It has long been fashionable to suggest that the Canadians got peacefully in 1849 the self-government for which they had rebelled in 1837. On the constitutional plane this is largely true. The revolts in both Canadas arose in an effort to bestow all legislative and executive power (and appointment of the judiciary) on the party which dominated the Assembly. After 1849 power was indeed concentrated in this way; the relation of colonial government to imperial government evolved much the way colonial radicals said it must. But relations between the colonial business interests and the colonial Assemblies had matured in the fashion the imperial government had always wished. By 1849 most of the powerful and creative interests in the colony were harnessed to the same institutions and ideas, instead of pulling in three different directions as popular politicians, prominent merchants and official placemen had done before 1837.¹

Two factors brought about this relative social peace. The first was the string of reforms enacted by the Special Council. Its legislation on seigneurial tenure and registry offices had thrust back into the past two of the most tangible and yet most emotional grievances of the British colonists. In the same way that Horton's Act in 1822 had patched up the essential rift between Upper and Lower Canada, the Special Council did the little that was essential to reconcile the British Lower Canadians to the peculiarities of their local civil law. Thereafter prominent men of business and finance were much more likely to sit on the Reform benches of the Assembly. The second factor for

stability was the reunion of Upper and Lower Canada. If it deprived the French Canadians of their dominance, it still left them in possession of much they had felt worth fighting for. This took them into an alliance with the Upper Canadian radicals. The reunion had checked the Canadiens' veto on change and had opened all Canada to the British emigrant, but it was not an irresistible mechanism for assimilating the French Canadians, since anglicization would require the active co-operation of all English Canada. As the British Tories foretold, this co-operation was not forthcoming. What the Tories had reckoned without was the strong commercial spirit which inspired at least part of the reform movement of Upper Canada, and which pushed through measures which the Canadiens had previously strangled as part of their harassment of the merchants of Montreal. The Canadiens traded voting strength for guarantees of cultural survivance, and abandoned obstructive tactics in return. Outside politics, canadien capitalism continued to grow while in the new Assembly, the reform alliance pushed for political emancipation from Britain. The result was, in a relatively short period, the collapse of racially-oriented parties in the British constituencies of Lower Canada, and further reform of the civil code and land tenure laws.² The French Canadians successfully resisted outward anglicization, yet they permitted the development and expansion of the British community in their midst. They gave up the struggle to lead the new order, but they did not lose the right to participate in it, nor did they shed altogether the aspects of their past which they cherished -- language, religion, and possession of the soil remained to them.

This study must end, as it began, by remarking that it requires a special effort of historical imagination to understand the position of the British Lower Canadians. These colonists must not be faulted for knowing their own past much

better than they understood the future of societies of European origin. To them democracy was a risky, ill-defined theory, not an established principle of political life. If they indulged in "le rêve d'un Empire-nation unitaire"³ they were as much ahead of their time as the Canadiens -- cultural homogeneity was not one of the foundations of sovereignty in 1820, or even in 1840.⁴ If they placed more faith in precedents and statutes than did the Canadiens, it was not simply because the precedents and statutes favoured them, but because British traditions had inspired stability and progress in England, while French innovation had plunged the Continent into chaos within living memory. If the British community supported its local bureaucracy against the local majority, it was because it felt that bureaucracy was part of a vital link with the sources not only of the colony's prosperity, but of many of its people. If they despised the Canadiens' struggle against a privileged minority on the provincial or colonial level, it was partly because the Canadiens could be perceived as a privileged minority on the national or imperial scale. The British colonists of Lower Canada gained a sense of identity and a sense of destiny during the 1830s; and they released the uglier passions these feelings generated during the rebellions. They were as much the prisoners of the Napoleonic era as the Canadiens -- the mistrust of the later period was a natural legacy of the earlier. But like the Canadiens they were helping to create a separate destiny for the Canadas, a destiny not dictated by the British government, nor even at all times acceptable to it. It was not Britain's policy to create a unified nation-empire. That was the private dream or public menace of Lower Canadians, and when bureaucrats or economic leaders sought to anglicize the colony down to the firesides of the habitants, they exceeded their mandates as agents of imperial expansion by threatening the peace and security, as

the patriotes threatened the prosperity, of Britain's overseas dominions. British colonists were as likely to confound as to advance the modest ambitions of the imperial statesmen who ruled the empire of which British Lower Canadians imagined themselves the servants and the champions.

Abbreviations

The following abbreviations are used to refer to archives, serials and major document collections referred to frequently in the footnotes and bibliography.

BM Add. Ms.: British Museum. Additional Manuscript no.

CHAR: Canadian Historical Association Annual Report

CHR: Canadian Historical Review

CO: Great Britain, Public Record Office: Colonial Office Records.

DMss.: Great Britain, Scottish Record Office, GD 45, Dalhousie Muniments.

EHR: English Historical Review.

Grey Mss.: University of Durham, Department of Paleography and Diplomatic, Grey of Howick Manuscripts.

IOL: Great Britain, India Office. Library.

JCBA: Journal of the Canadian Bankers' Association.

JHALC: Journals of the House of Assembly of Lower Canada

NLS: National Library of Scotland.

PAC: Canada, Public Archives.

PP: Great Britain, Parliament. Parliamentary Papers.

PRO: Great Britain, Public Record Office.

RHAF: Revue d'histoire de l'Amerique Française.

TRSC: Transactions of the Royal Society of Canada.

WSRO: West Sussex Record Office.

References are made to the first folio of CO letters and despatches cited.

Endnotes - Chapter 1

- 1 A valuable historiographic summary is R.W. Winks, "On Decolonization and Informal Empire", American Historical Review vol. 81 no. 3 (July 1976) pp. 546-56.
For the passage quoted, see CO 42/238 fo. 496, McGill to Aylmer 5 Dec. 1832, encl. in Aylmer to Goderich 26 Dec. 1832.
- 2 PAC: Roebuck Mss. vol. 9, Papineau to Roebuck 4 Sept. 1836.
- 3 D.G. Creighton, The Commercial Empire of the St. Lawrence, 1760-1850 (New York, 1937); W.P. Morrell, British Colonial Policy in the Age of Peel and Russell (Oxford, 1930); P. Burroughs, The Colonial Reformers and Canada (Toronto, 1967); J.M. Ward, Colonial Self-Government: The British Experience, 1759-1856 (Toronto, 1976); A. Faucher, "Le problème financière de la Province du Canada (1841-1867)", Recherches sociographiques vol. 1 no. 3 (1960) pp. 343-62; and Histoire économique et unité canadienne (Montreal, 1970).
- 4 For an important recent exception see G. Tulchinsky, The River Barons: Montreal Businessmen and the Growth of Industry and Transportation, 1837-53 (Toronto, 1977).
A sensitive handling of the problems of the Lower Canadian businessmen also characterizes one of the most important works on this period, F. Ouellet, Histoire économique et sociale du Québec, 1760-1850: structures et conjonctures (Montreal, 1966).

- 5 Apart from Creighton and Ouellet, mention must also be made at this point of F.M. Greenwood, 'The Development of a Garrison Mentality Among the English in Lower Canada 1793-1811', PhD thesis, Univ. of British Columbia 1970; and H.T. Manning, The Revolt of French Canada: A Chapter in the History of the British Commonwealth (Toronto, 1962). P. Burroughs, The Canadian Crisis and British Colonial Policy 1828-1841 (London, 1972) is a useful summary.
- 6 C.W. New, Lord Durham: A Biography of John George Lambton, first Earl of Durham (Oxford, 1929); G-E Baillargeon, La survivance du régime seigneurial à Montréal; un régime qui ne veut pas mourir (Ottawa, 1970); G.^{W.}~~E.D.~~ Martin, The Durham Report and British Policy (Cambridge, 1972).
- 7 Quellet, Histoire économique et sociale p. 411.
- 8 M. Brunet, "Trois dominantes de la pensée canadienne-française: L'Agriculturisme, L'Anti-Etatisme et la messianisme", in Brunet, La présence Anglaise et les Canadiens (Montreal, 1964) p. 202.
- 9 W.G. Ormsby, "Lord Durham and the Assimilation of French Canada" in N. Penlington, ed., On Canada: Essays in Honour of Frank H. Underhill (Toronto, 1969) p. 43.
- 10 See especially H.M. Neatby, Quebec: The Revolutionary Age, 1760-1791 (Toronto, 1966) and J. Monet, The Last Cannon Shot: A Study of French-Canadian Nationalism 1837-1850 (Toronto, 1969).
- 11 PP 1837 (96) VII, 'Minutes of Evidence taken before the Select Committee Appointed in the Year 1834 on Affairs of Lower Canada', p. 180, testimony of James Stuart.
- 12 A Canadian Loyalist, The Question Answered. "Did the Ministry intend to pay rebels?" In a letter to... the Earl of Elgin (Montreal, 1849) p. 8.

- 13 W.E. Gladstone, Our Colonies - An Address Delivered to the Members of the Mechanics' Institute, Chester (London, 1855) p. 19.
- 14 R. Christie, A History of the Late Province of Lower Canada, 1791-1841 (Quebec, 1848-55) 6 vols. See vol. 3 p. 2.
- 15 H. Butterfield, "The Whig Interpretation of History" (London, 1973) p. 15; originally published 1931; and see D.G. Creighton, Towards the Discovery of Canada; selected essays (Toronto, 1972) pp. 3, 213.
- 16 D.G. Creighton, "The Struggle for Financial Control in Lower Canada", CHR vol. 12 (1931) p. 121.
- 17 K.L.P. Martin, "The Influence of the Crown in the Evolution of Responsible Government", CHR vol. 3 (1922) pp. 334-43, especially pp. 339-42.
- 18 The classic statement of this view is given in R.L. Schuyler, The Fall of the Old Colonial System (New York, 1945).
- 19 J.M. Ward, Colonial Self-Government.
- 20 For a disapproving discussion of this "reaction against the Enlightenment" see F.H. Underhill's presidential address to the Royal Society of Canada, "The Revival of Conservatism in North America", TRSC vol. 52 series 3 (June 1958) pp. 1-19. P. 17 is a scathing attack on Dr. Creighton.
- 21 For a useful bibliography and a critical historiographical report on this controversy see T.J.A. LeGoff, "The Agricultural Crisis in Lower Canada, 1802-12: A Review of a Controversy", CHR vol. 55 no. 1 (Mar. 1974) pp. 1-31.
- 22 For anti-Catholicism see E.R. Norman, Anti-Catholicism In Victorian England (London, 1968) especially pp. 21, 2, "Liberal principles were no bar when the adversary was believed to be essentially illiberal."

- 23 For a useful study of the social consequences of 1759, see M. Brunet, "The British Conquest: Canadian Social Scientists and the fate of the Canadiens", CHR vol. 40 no. 1 (Mar., 1959) pp. 93-107.
- 24 G. Kitson-Clark, Peel and the Conservative Party; a Study in Party Politics 1832-1841 (London, 1964) 2nd. ed., pp. xix-xx.
- 25 All Souls College, Oxford; Codrington Library, Vaughan Mss. C2, H.W. Addington to Vaughan 14 Jan. 1828.
- 26 CO 537/137 fo. 29, Memorandum by James Stephen 30 Apr. 1836.
- 27 Grey Mss., third Earl's journal, entry 21 Apr. 1836; and ibid., T. Baring to Grey, 11 Nov. 1850.
- 28 Quebec Gazette 5 Apr. 1833.
- 29 The authoritative work on Britain's military policy in North America in this period is K. Bourne, Britain and the Balance of Power in North America 1815-1908 (London, 1967); see also G.K. Raudzens, "The Military Impact on Canadian Canals, 1815-25", CHR vol. 54 no. 3 (Sept. 1973) pp. 287-97. For Wellington's remark see CO 42/208 fo. 1, Wellington to Bathurst 6 Dec. 1825; for Roebuck see PAC: Roebuck Mss. vol. 8, Roebuck to Melbourne 29 Dec. 1837.
- 30 A section of the bibliography, below, is devoted to pamphlets on trade and commercial policy; see also PP 1833 (690) VI, Report of Select Committee on Manufacturing, Commerce and Shipping, and PP 1835 (519) XIX, Report of Select Committee on the Timber Duties. See also R.D. Hall, 'The Canada Company 1826-1843', Phd thesis, Cambridge 1974.
- 31 For an important study of British attitudes to emigration see K.E. Knorr, British Colonial Theories, 1570-1850 (Toronto, 1944); also H.I. Cowan, British Emigration to British North America: The First Hundred Years (Toronto,

1961) 2nd ed., revised and enlarged. Huskisson's remarks are in Hansard New series vol. 12 cols. 1104-5 (21 Mar. 1825).

- 32 Wordsworth's lines were quoted by N. Gould, Emigration: Practical Advice to Emigrants (London, 1834) p. 7, from The Excursion, Book 9. For Horton, see Grey Mss., Horton to Howick 20 Feb. 1831.
- 33 Wellington, 2nd Duke, Despatches, Correspondence, and Memoranda of Field Marshall Arthur Duke of Wellington, K.G. (London, 1867-1880) vol. 3 p. 432, Wellington to F.J. Robinson 20 Oct. 1826.
- 34 Catton Mss. vol. 77, Stratford Canning to Wilmot 7 Nov. 1822. In 1822 Robert J. Wilmot changed his name to Robert J. Wilmot Horton; for the reader's convenience he is referred to as "Horton" throughout this work.

Chapter 2

- 1 This was true even of the French Canadians; see for instance [D.B. Viger] Un Canadien, Analyse D'Un Entretien Sur La Conservation Des Etablissements du Bas-Canada, Des Loix, Des Usages, &c de ses Habitans. (Montreal, 1826).
- 2 IOL: Amherst Mss 160a, Hale to Duke of Kent, 4 Sep. 1819; DMss. 3/34A/5, Cochran to (?), 28 Mar. 1820.
- 3 H.T. Manning, The Revolt of French Canada: A chapter in the history of the British Commonwealth (Toronto, 1962) pp. 130-131.
- 4 House of Assembly of Lower Canada, Report of a Special Committee of the House of Assembly Appointed to Enquire into the State of Education in this Province (Quebec, 1824); also F. Ouellet, "L'enseignement primaire: responsabilité des Eglises ou de l'Etat (1801-1836)" in Eléments d'histoire sociale du Bas-Canada (Montreal, 1972) pp. 259-80.

- 5 CO 42/187 fos. 120-21, Dalhousie to Bathurst 10 June 1821; CO 42/200 fo. 176, same to same, 5 July 1824; CO 43/25 ^{fos.} pp. 68-⁷⁰~~69~~, Bathurst to Plessis 10 Sep. 1821, explained in a letter of the same day to Dalhousie, ibid., ^{pg.} ~~p.~~ 68.
- 6 CO 43/25 ^{pg.} p. 202, Bathurst to Dalhousie, 15 Dec. 1824. For the 1827 ventures see R. Christie, History of the Late Province of Lower Canada (Quebec, 1848) vol. 3, p. 128.
- 7 PAC: Sulpician Seminary Mss., microfilm, reel M1586, Item 48, memorandum by M. Roux on the Fleming case, Nov. 1819; ibid., transcripts, vol. 6, p. 1937, Moquin to Roux, 23 Dec. 1822; and vol. 7, same to same, 3 Mar. 1824 reporting division in court of appeals.
- 8 Ibid., microfilm, reel M1582, Item 68, "Memoire Secret", ca. 1822. For Richardson's contribution, DMss. 3/96, Burton to Dalhousie, 1 Oct. 1824.
- 9 CO 42/200 fo. 242, Dalhousie to Bathurst 19 Dec. 1824; DMss. 3/471, memo by Dalhousie on R.C. church patronage, 30 March 1823; ibid., 3/475, memo on conversation with M. Chabouillez, 1 Sep. 1823; ibid., 3/477, Memo by Dalhousie Jan. 1824; 3/479, M. Pigeon, prêtre, Correspondence Entre L'Eveque de Telmesse et Le Curé de S. Philippe Au Sujet de la Visite en 1824 & 1825 (n.p., n.d.).
- 10 J-P Wallot, "Le régime seigneurial et son abolition au Canada", CHR vol. 50 no. 4 (Dec. 1969) pp. 377-78; R.C. Harris and J. Warkentin, Canada Before Confederation: A Study in Historical Geography (Toronto, 1974) pp. 65-110, especially fig. 3-3, "Seigneuries Owned or Controlled by Non-French Canadians, 1800 and 1860"; PAC: Pothier Mss., "Memorandum... for Sir James Kempt", which is discussed at length in F. Ouellet, "Toussaint Pothier et le problème des classes sociales (1829)", in Eléments d'histoire sociale, pp. 281-96.

- 11 Mercury, 31 Mar. 1827.
- 12 Manning, Revolt of French Canada, p. 21; DMss. 3/404, 3/414, 3/417, 3/419, 3/426, especially the last, "Officers of militia dismissed for other causes than political conduct"; DMss. 3/34B/207, Cochran to Dalhousie, 7 Aug. 1873.
- 13 CO 47/121, Blue Book, Lower Canada, "Civil Establishment".
- 14 There are excellent sources on these three bureaucratic families; for the Hales, IOL: Eur Mss. F.100, Amherst Mss. 160a; for the Sewells, PAC: Sewell Mss.; for the Rylands, PAC: Ryland Mss. and private mss. in the possession of the Earl Spencer, Althorp House, Northants. See also DMss. 3/545 p. 25, journal 14 Apr. 1822.
- 15 PP 1828 (569) VII.375 pp. 69-70, 'Report from the Select Committee on the Civil Government of Canada', evidence of J. Neilson; also the pamphlet Financial Difficulties of Lower Canada (Quebec, 1824) pp. 16-17; reprinted from the Gazette, 9-24 Dec. 1824.
- 16 DMss. 3/546 p. 122, journal entry 29 Feb. 1824 for exclusion from in camera session; also DMss. 3/543 p. 105, journal entry 27 Dec. 1820; ibid., p. 103, journal entry 17 Dec. 1820 for financial measure of 1820; for Dalhousie's proposals to reform the Council CO 42/187 fos. 126-7, Dalhousie to Bathurst 10 June 1821; also DMss. 3/56, Dalhousie to Sewell 17 Dec. 1820. Members of the Executive Council were listed annually in the Blue Books, CO 47/121 et. seq.
- 17 [J. Simpson], To the Honorable the Legislative Council, of Lower Canada, in Parliament Assembled (n.p., n.d.) [1821]; this rare pamphlet, a satirical attack on the judiciary, is preserved in DMss. 3/614; Dalhousie made the author a customs official in 1822.
- 18 PP 1828 (569) VII.375, p. 88.

- 19 J.B. Brebner, "Patronage and Parliamentary Government", CHAR 1938, pp. 22-31; CO 47/121, Blue Book, 1821, lists the appointing authority for each office; there were many minor offices such as clerkships in the gift of heads of departments which were not reported in the Blue Book and were paid by the appointing officer, sometimes from his fees, sometimes from contingencies; W.L. Morton, "The Local Executive in the British Empire, 1763-1828", EHR vol. 78 (1963) pp. 452-4.
- 20 Fees: DMss. 3/545 p. 18, journal entry 24 Feb. 1822; CO 42/187 fos. 275-6, Dalhousie to Bathurst 6 ^{Nov.} Sep. 1821; CO 42/191 fo. 91, same to same 23 Feb. 1822. Reform of the judiciary: JHALC 1823-24, Appendix QQ; CO 42/209 fo. 67, Dalhousie to Bathurst 3 Apr. 1826, and A.W. Cochran, Observations on the Petitions of Grievance, Addressed to the Imperial Parliament, from the Districts of Quebec, Montreal and Three Rivers (Quebec, 1828) p. 17. Receiver-general: see below, this chapter, section iv. Militia: below, chapter 4, section iii.
- 21 Derby County Library: Catton Mss. (Caldwell) and (Canada Misc.) passim; DMss. 3/546 pp. 13-62, journal entry 2 Apr., 17 Aug., 7 Dec. 1823, and 29 Feb. 1824; DMss. 3/34A/71-7, Cochran to Dalhousie, passim; CO 42/196 fo. 117, Dalhousie to Bathurst 28 ^{Apr.} Aug. 1823.
- 22 Mercury 30 Jan. 1821; DMss. 3/546 p. 15, journal entry 23 Apr. 1823.
- 23 Derby County Library: Catton Mss. (Caldwell), Caldwell to Horton 23 Jan. 1823, 4 March 1823.
- 24 CO 42/196 fo. 117, Dalhousie to Bathurst 28 Apr. 1823. DMss. 3/546, p. 14, journal entry 2 Apr. 1823.
- 25 Major despatches from Dalhousie and Lieutenant-Governor Burton to Bathurst on this subject are CO 42/200 fo. 129, 4 June 1824; CO 42/203 fo. 27, 24 ^{Mar.} Mar. 1825; CO 42/204, fo. 308, 20 Dec. 1825; also CO 42/211 fo. 85, Davidson

to Horton 31 Jan. 1826. The major replies are in CO 43/25 fos. 159-61, Horton to Dalhousie 9 Oct. 1823; ibid. fo. 161, same to same 5 Nov. 1823; ibid. fo. 207, Bathurst to Burton 10 Jan. 1825; and CO 43/26 fo. 20, same to Dalhousie 21 Mar. 1826. A useful precis of the case by a CO clerk appears in CO 47/118 fo. 179.

CO 47/118 fo. 179.

- 26 The Acts were 3 Geo. iv c. 44-45, 3 Geo. iv c. 119, 6 Geo. iv c. 59.
- 27 See CO 42/193 passim, "Canada 1822: Union of the Legislatures...." and CO 42/194 passim, "General Union of the British Provinces in North America, 1822 & 1823".
- 28 Hansard's Parliamentary Debates 31 George III (1791) cols. 109 (Fox) and 113 (Pitt); DMss. 3/550 p. 4, journal entry 3 Jan. 1828.
- 29 PP 1828 (569) VII.375 p. 50, p. 62.
- 30 [James Stuart], Observations on the proposed union of the provinces of Lower and Upper Canada, submitted to His Majesty's Government by the Agent of the Petitioners for That Measure (London, 1824) pp. 26-27.
- 31 Robinson's correspondence is in CO 42/193; see especially the letter^{fo. 98,} to Wilmot Horton, 23 Apr. 1822.
- 32 NLS: Ellice Mss. E87, Richardson to Ellice 23 May 1823.
- 33 The proceedings are in Hansard, New Series, vol. 7 cols. 1698-1714, 1729-31: for Ellice's role see Derby Central Library: Catton Mss. (Canada, Misc.) Ellice to Horton, Monday 4th [Aug. 1822]; also Sir R.J. Wilmot Horton, Exposition and Defence of Earl Bathurst's Administration of the Affairs of Canada when Colonial Secretary, During the Years 1822 to 1827, Inclusive (London, 1839) pp. 7-9.
- 34 CO 42/194, passim; CO 43/25 ^{fo.} 139, Bathurst to Dalhousie 13 Jan. 1823; ibid., ^{fo.} 154, same to same 30 Aug. 1823 and Dalhousie's reply, CO 42/196 fo. 296, 21 ^{Nov.} Sep. 1823.

- 35 Derby Central Library: Catton Mss. (Ellice), Ellice to Wilmot Horton 22 Nov. [1822]; and ibid., Richardson to Ellice 31 Dec. 1822; CO 42/193 fos. 124-5, memo by James Monk 20 July 1822; Mercury 9 July 1822, p. 222 also ibid., 2 Aug., 27 Aug., and 18 Oct. 1822.
- 36 These pamphlets were bound into CO 42/194. For Stuart's relations with Dalhousie, see CO 42/196 fo. 296, Dalhousie to Bathurst 21 ^{Nov.} ~~Sep.~~ 1823.
- 37 PAC: Neilson Mss. vol. 36 p. 345, Samuel Neilson to John Neilson 23 Jan. 1823.
- 38 Derby Central Library: Catton Mss. (Ellice) Richardson to Ellice 31 Dec. 1822.
- 39 CO 42/193 fos. 134-5, Petition of the Eastern Townships in favour of the union.
- 40 Derby County Library: Catton Mss. (Ellice) Richardson to Ellice 31 Dec. 1822.
- 41 PAC: Mss. du Mouvement Anti-Unioniste, "Procedés des Habitants de la cité et du District du Montréal", report of a meeting on 7 Oct. 1822.

Chapter 3

- 1 Quoted by R. Christie, Late Province of Lower Canada vol. 3 p. 57.
- 2 Mercury 10 Jan. 1823.
- 3 DMss. 3/544 p. 11, journal entry 28 Feb. 1821.
- 4 DMss. 3/547 p. 76, journal entry 11 Dec. 1825; ibid. 3/549 p. 122, journal entry 2 Dec. 1827.
- 5 [L-J Papineau] Un loyal Canadien, Adresse à tous les électeurs du Bas-Canada (Quebec, 1827) pp. 3-7; the hazards of reading class-distinctions into the attitudes of past generations is usefully noted in J. Vincent, The Formation of the British Liberal Party 1857-1868 (London, 1972) pp. 115-16.

- 6 Papineau, Adresse à tous les électeurs pp. 7-9, 19.
- 7 G. Bourque, Question nationale et classes sociales au Québec (1760-1840) (Montreal, 1970), p. 234.
- 8 DMss. 3/34a, Cochran to (?) 28 Mar. 1820.
- 9 Papineau, Adresse à tous les électeurs p. 18.
- 10 For candle auction, Mercury 19 Mar. 1822; for Marshall, see D.G. Creighton, "The Struggle for Financial Control in Lower Canada, 1818-1831" CHR vol. 12 no. 2 (June 1931) p. 141, quoting a memo by Marshall written 13 Apr. 1822.
- 11 D.G. Creighton, "Financial Control" p. 44.
- 12 H.T. Manning, "The Civil List of Lower Canada" CHR vol. 29 no. 1 (Mar. 1943) pp. 24-47; P.A. Buckner, 'Colonial Office Government in British North America, 1828-1847', PhD thesis, London, 1969.
- 13 DMss. 3/542 pp. 21-76, journal entries for visits to Canada, July-Aug. 1819; CO 42/185 fos. 181-2, Dalhousie to Bathurst 14 July 1820; CO 43/25 ^{fos.} pp. 18-23, Bathurst to Dalhousie, two letters 11 ^{Sep} Nov. 1820; H.T. Manning, Revolt of French Canada, pp. ¹³⁶ ~~134-5~~; DMss. 3/543 p. 99, journal entry 18 Nov. 1820.
- 14 DMss. 3/55, memo of 3 Dec. (1820) on relations with Assemblymen and Legislative Councillors; DMss. 3/543 p. 103, journal entry 17 Dec. 1820.
- 15 R. Christie, Late Province of Lower Canada vol. 3 pp. 182-3.
- 16 DMss. 3/543 pp. 102-3, journal entries 10, 17 Dec. 1820.
- 17 DMss. 3/544 p. 3, journal entry 1 Jan. 1821.
- 18 DMss. 3/544 p. 11, journal entry 28 Feb. 1821.
- 19 "Richardson's rules" are published with commentary in R. Christie, Late Province of Lower Canada, vol. 2 pp. 340-3; for Hale, see IOL: Amherst Mss. 160a, Hale to Amherst, 21 Mar. 1821.
- 20 Closing speech, R. Christie, Late Province of Lower Canada, vol. 2 pp. 350-51; also Mercury 13-20 Mar. 1821.

- 21 For opening, DMss. 3/544 p. 120, journal entry 11 Dec. 1821; for quorum, ibid. p. 122, journal entry 23 Dec. 1821; for Papineau, ibid. p. 124, journal entry 30 Dec. 1821; for Plessis, DMss. 3/545 pp. 7-8, journal entry 29 Jan. 1822.
- 22 For this session see Dalhousie's journal cited above, note 21, and DMss. 3/545 pp. 4-5, 9, journal entries 20 Jan., 3 Feb. 1822. For non-parity resolutions see R. Christie, Late Province of Lower Canada vol. 2 pp. 362-4.
- 23 CO 42/191 fos. 209-11 for Richardson's version of his remarks.
- 24 R. Christie, Late Province of Lower Canada, vol. 2 pp. 362-3, 370-6.
- 25 Ibid., p. 367.
- 26 For comments on Vallières' efforts to become a judge in 1827 and his success in 1829 see DMss. 3/184, memo by Dalhousie 28 Mar. 1827, and DMss. 3/34B/180, Cochran to Dalhousie 19 May 1829.
- 27 R. Christie, Late Province of Lower Canada, vol. 3 p. 14; DMss. 3/546 pp. 11-12, journal entry 24 Mar. 1823.
- 28 R. Christie, Late Province of Lower Canada, vol. 3 pp. 14-57 reports on this session; also DMss. 3/282, memorandum by Dalhousie 1 Mar. 1824.
- 29 For the agent, DMss. 14/11/508, Dalhousie to Couper 9 Oct. 1826; for Sewell on dissolution, DMss. 3/546 p. 29, journal entry 20 June 1823; for Ryland's remark, PAC: Ryland Mss. vol. 4 pp. 515 and 547, Ryland to Burton 5 June 1824 and 1 Nov. 1825.
- 30 DMss. 3/44, Sewell to Dalhousie 4 June 1824.
- 31 Financial difficulties of Lower Canada (Quebec, 1824) pp. 16-17 (reprinted from the Quebec Gazette).
- 32 For Burton's administration see R. Christie, Late Province of Lower Canada, vol. 3 pp. 58-75; Burton's

despatches are contained in CO 42/200 fos. ²⁵⁰266-end, and CO 42/203. See also PAC: Ryland Mss. vol. 4 p. 557, Ryland to Burton 21 Mar. 1826.

- 33 DMss. 3/167,171, memoranda on Burton's supply bill, July and Nov. 1826.
- 34 Mercury 22 Mar. 1825.
- 35 DMss. 3/134, John Simpson to Dalhousie 18 Mar. 1825, enclosing clippings from the Herald and Canadian Spectator.
- 36 CO 42/203 fos. 12-22, Burton to Bathurst 24 Mar. 1825; CO 43/25 ^{p.}226, Bathurst to Burton 4 June 1825; and CO 42/203 fos. 156-65, Burton to Bathurst 25 July 1825. Dalhousie's recriminations went on for years; see for example CO 42/212 fo. 317, Dalhousie to Horton 10 Sep. 1827.
- 37 DMSS. 3/548 p. 30, journal entry 16 Apr. 1826.
- 38 For 1826 supply bill see R. Christie, Late Province of Lower Canada, vol. 3 pp. 90-2; also DMss. 3/44, Dalhousie's memo on dissolution, 23 Apr. 1826.
- 39 CO 42/211 fos. 185-7, W.B. Felton, "Memoir on the Financial Difficulties of the Government of Lower Canada", n.d. [1826].
- 40 DMss. 3/27B, Dalhousie to Kempt 22 Nov. 1827; also DMss. 3/549 p. 149, undated memo by Dalhousie.
- 41 DMss. 3/43, Harvey to Dalhousie 18 Jan. 1829.
- 42 See below, chapter 5, section i.
- 43 CO 43/27 ^{fos.}pp. 57-71, Murray to Kempt 29 Sep. 1828.
- 44 DMss. 3/34B/138, 158, 167, Cochran to Dalhousie 26 Dec. 1828, 15 Feb. and 14 Mar. 1829; ibid. 3/97, Richardson to Dalhousie 5 Feb., 30 Mar. 1829, 29 Mar. 1830, 26 Mar. 1831; 3/230, J.H. Kerr to Dalhousie 1 Mar. 1830; 3/44, Sewell to Dalhousie 4 Jan. 1829. For Kempt's views see CO 42/222 fo. 248, Kempt to Murray 25 Mar. 1829; for Murray, CO 43/27 ^{p.}139, Murray to Kempt 8 Oct. 1829.

- 45 [John Fleming] A British Settler, Political Annals of Lower Canada (Montreal, 1828) p. 110.
- 46 R. Christie, Late Province of Lower Canada. vol. 3 pp. 3-4; [A. Thom], Anti-Bureaucrat, Remarks on the Petition of the Convention, and on the Petition of the Constitutionals (Montreal, May 1835) p. iii.
- 47 Re. Perceval, DMss. 3/300, Dalhousie to Wodehouse 5 Oct. 1826; PAC: Young Mss. vol. 8 p. 1050, Wm. Price to T.A. Young 27 Jan. 1825; also DMss. 3/156 p. 9, Richardson to Dalhousie 18 Mar. 1825 on sense of political isolation.

Chapter 4

- 1 For this period generally, see F. Ouellet, Histoire économique et sociale chapter 13, "Le régime britannique sauvé par le bois, 1823-36", pp. 389-412. For the debate on ideology see S.F. Wise, "Conservatism and Political Development: The Canadian Case", South Atlantic Quarterly vol. 69 no. 2 (Spring 1970) pp. 226-43; and "Liberal Concensus or Ideological Battleground: Some Reflections on the Hartz Thesis", Presidential address, CHAR 1974, pp. 1-14; also D. Bell, "The Loyalist Tradition in Canada", Journal of Canadian Studies vol. 5 no. 2 (May, 1970) pp. 22-33; also K.D. McRae, "The Structure of Canadian History" in The Founding of New Societies: Studies in the History of the United States, Latin America, South Africa, Canada and Australia, ed. L. Hartz (New York, 1964) pp. 219-74. In this thesis a "conservative" is one who believed, among other things, that the existence of social classes is inevitable, that a ruling and serving aristocracy is necessary, and that majority rule would be more fallible and more potentially tyrannical than

aristocratic or oligarchic rule. For a discussion of this theme see F.H. Underhill, "The Revival of Conservatism".

- 2 J. Fleming, Political Annals of Lower Canada, pp. iv-vi.
- 3 A. Shortt, "Founders of Canadian Banking: The Hon. John Richardson, Merchant, Financier, and Statesman", JCBA vol. 29 (1928) pp. 17-37, 165-78. For Sewell's background see W.H. Nelson, "Last Hopes of the American Loyalists", CHR vol. 32 no. 1 (Mar. 1951) pp. 22-43, especially 34-40.
- 4 [F. Blanchet] Un Membre de la Chambre d'Assemblée, Appel au Parlement Impérial... sur les Prétensions Exorbitantes du Gouvernement (Quebec, 1824) p. 43; J. Labrie, Les Premiers Rudimens de la Constitution Britannique (Montreal, 1827) p. 33.
- 5 Mercury 2 June 1827; [D. Chisholme] The Lower Canada Watchman (Kingston U.C., 1829) p. 77.
- 6 J. Sewell, An Essay on the Juridical History of France, So far as It Relates to the Law of the Province of Lower Canada (Quebec, 1824); for a short biography see F-J Audet, Les Juges en chef de la Province de Québec 1764-1924 (Quebec, 1927).
- 7 S.F. Wise, "Liberal Concensus or Ideological Battleground", p. 9.
- 8 DMss. 3/102, memorandum on state of the province, 1823; Chisholme, Watchman p. 26.
- 9 For the Governor as "representative" see A. Stuart, Review of the Proceedings of the Legislature of Lower in the Session of 1831 (Montreal, 1832), chapter 12, pp. 133-40. Dalhousie would have agreed with this view: see DMss. 3/543 p. 103, journal entry 17 Dec. 1820, "it sits awkwardly on a subject in my opinion to play the King, and these forms ought to be adopted to the inferiority of the case."

- 10 Mercury 15 Feb. 1820; Montreal Herald 19 May 1824.
- 11 Montreal Gazette 31 Dec. 1827, 4 Dec. 1828.
- 12 Mercury 5 Jan. 1828.
- 13 For "Senex", Montreal Herald 16 Apr. 1825; for Chisholme, see his Letter from Delta to Senex (Montreal 1827) p. 17.
- 14 J. Richardson, The Letters of Veritas (Montreal, 1814) p. 11; Montreal Gazette 14 Apr. 1826.
- 15 J. Garner, The Franchise and Politics in British North America (Toronto, 1969) p. 82.
- 16 For Kerr, CO 42/216 fo. 371, memorandum 21 Feb. 1828; Caldwell, CO 42/193 fos. 171-83, memo on civil list, 12 Apr. 1822.
- 17 For Sherbrooke, see DMss. 3/18, Sherbrooke to Dalhousie Jan. 1822; also DMss. 3/55, memo by Dalhousie, 3 Dec. [1820]: and CO 42/212 fo. 8^o, Dalhousie to Bathurst 20 ^{Apr.} ~~Aug.~~ 1827.
- 18 R.A. D'Estimauville, Cursory View of the Local Social, Moral and Political State of Lower Canada (Quebec, 1829) p. 44.
- 19 CO 42/212 fo. 226, Dalhousie to Bathurst ^{27 May 1827.} ~~21 Jan. 1826.~~
- 20 CO 42/211 fos. 156-9, Felton to Horton 21 Jan. 1826; for Kerr's mistrust of enlargement of the Assembly, DMss. 3/224, Kerr to Dalhousie 23 Mar. 1829; also DMss. 3/549 p. 103, journal entry 21 Dec. 1827.
- 21 Archives of Ontario: MacAulay Mss., Moffatt to J. MacAulay 15 Dec. 1827; also A. Shortt, "Founders of Canadian Banking: the Honourable George Moffatt, Merchant, Statesman and Banker", JCBA vol. 32 (1931) pp. 177-91.
- 22 A. Shortt, "Founders of Canadian Banking-The Hon. Peter McGill, Banker, Merchant and Civic Leader", JCBA vol. 32 (1924) pp. 297-307.
- 23 Montreal Herald 16 Feb. 1825; a useful list of the Assembly's bills defeated by the Council, and vice versa is in PP 1834 (149) XLIII, "Returns Relating to the Legislative Council of Lower Canada".

- 24 DMss. 3/201, Gale to Cochran 6 Jan. 1827, with enclosures.
- 25 Montreal Gazette 11 Dec. 1828.
- 26 Approval of dissolution, CO 42/212 fo. 85, Dalhousie to Bathurst 20 Apr. 1827; reluctant magistrate, see DMss. 3/183, Dalhousie to David Ross K.C. 14 Mar. 1827; for Cochran, DMss. 3/34B/25, Cochran to Dalhousie 20 July 1827; for report from Montreal, see CO 42/214 fo. 147, unsigned enclosure in Logan to Huskisson 8 ^{Oct.}~~Sep.~~ 1827.
- 27 DMss. 3/549 p. 13 journal entry 4 Mar. 1827; and CO 42/212 fos. 85-90, Dalhousie to Bathurst 20 Apr. 1827.
- 28 "Address to our Constituents", DMss. 3/617/31, newspaper clipping n.p., n.d.; the reply to this was D. Chisholme's Letter From Delta to Senex (Montreal, 1827). For Montreal election meetings, see Mercury 14 July 1827; for Moffatt's announcement, see ibid. 17 July 1827. The London Morning Post reprinted McGill's speech in full, 8 Oct. 1827, from the Montreal Herald 15 Aug. 1827.
- 29 For Dalhousie on Irish voters see DMss. 3/549 pp. 53, 74, 137-41, journal entries 22 July, 16 Sep., 10-15 Aug. 1827; for Driscoll, see Mercury 7 Aug. 1827.
- 30 Dalhousie's collection of papers on the militia crisis fills DMss. 3/404-426; for Simpson and Dumont, see DMss. 3/34B/29, Cochran to Dalhousie 20 July 1827; for Fr. Keller, ibid. p. 67, same to same 30 Aug. 1827; for Simpson's advertisement, Mercury 18 Aug. 1827.
- 31 For Ogden's problems see DMss. 3/34B/1, Cochran to Dalhousie 23 June 1827, and DMss. 3/550 p. 141, memorandum by Dalhousie 15 Aug. 1827.
- 32 DMss. 3/488, Dalhousie to Kelly 15 Aug. 1827; ibid. 3/549 pp. 54-5, journal entry 29 July 1827; James Stuart was Dalhousie's informant; Kelly denied his father was involved.
- 33 DMss. 3/34B/29, Cochran to Dalhousie 20 July 1827.

- 34 CO 42/212 fo. 422, Dalhousie to Huskisson 10 Dec. 1827; DMss. 3/34B/44, Cochran to Dalhousie 6 Aug. 1827; Mercury 31 July 1827.
- 35 Mercury 28 July, 18 Aug. 1827.
- 36 DMss. 3/34B/29,38, Cochran to Dalhousie 20, 27 July 1827; Mercury 28 July 1827; for Perceval, see PAC: Young Mss. vol. 8 p. 1050, Wm. Price to Young, 27 Jan. 1825.
- 37 DMss. 3/34A/47, Cochran to Dalhousie 26 Aug. 1822.
- 38 Mercury 10 July, 4 Aug. 1827; PAC: Neilson Mss. vol. 39A, poll book.
- 39 F. Ouellet, Histoire économique et sociale, p. 406.
- 40 DMss. 3/549 pp. 97-106, journal entries 21 Oct., 4 Nov. 1827.
- 41 DMss. 3/545 p. 14, journal entry 10 Feb. 1822.
- 42 For Keller, see ibid.; since there was no session in 1827, JHALC 1827 consists almost entirely of proceedings on the election of a Speaker. For rift between Dalhousie and Sewell, see PAC: Sewell Mss. vol. 6 p. 3021, J. Sewell to R. Sewell 28 June 1826.
- 43 JHALC 1827, 21 Nov. 1827; Mercury 24 Nov., 1 Dec. 1827, for Assembly debates and editorial comment.
- 44 Archives of Ontario, MacAulay Mss., Moffatt to MacAulay 15 Dec. 1827.
- 45 DMss. 3/190, Stuart to Dalhousie 4 Sep. 1827; 3/193 and 3/208, Dalhousie's memoranda of verbal reports by Stuart, 19 Nov. 1827 and 23 Mar. 1828.
- 46 For new militia troubles, DMss. 3/414, Lt. Col. de Martigny to Dalhousie 26 Dec. 1827; also DMss. 3/417, 3/426, especially General Order, 21 Feb. 1828. Leading Montreal merchants warned of possible separatist sentiment during reassessment of the colonial corn preferences in 1821 -- CO 42/188 fos. 7-13, Petition of John Richardson, Samuel Gerrard and others, 9 Sep. 1821.

- 47 Addresses to His Excellency the Governor in Chief, From Different Parts of Lower Canada, with His Excellency's Answers (n.p., 1828).
- 48 Ibid., includes affidavits of patriote wrongdoing. See also Quebec Gazette 11 Apr. 1834, when a schoolmaster defended the practice of having school-children sign petitions on the grounds of the 1827 precedents; Neilson's comment on this occasion did not deny the allegation about 1827.
- 49 PAC: Pothier Mss., Memorandum for Sir James Kempt.

Chapter 5

- 1 Attempts to curb Governors' independence are described in H.T. Manning, "Colonial Crises Before the Cabinet", Bulletin of the Institute of Historical Research vol. 30 (1957) pp. 41-61; and "Who Ran the British Empire, 1830-1850?", Journal of British Studies vol. 5 (1965) pp. 88-121.
- 2 British Museum, Loan 57/59 p. 160, Bathurst to Hay 24 Dec. 1828; DMss. 3/225, Hay to Dalhousie 28 July 1828, stressed that colonial patronage was a major cause of hostility between government and opposition in the Commons.
- 3 DMss. 3/201, Gale to Cochran 13 June 1828.
- 4 PAC: Neilson Mss. vol. 4 p. 1845, John Neilson to Samuel N. 22 Apr. 1828, "The other party fight with our money, & the natural bias of the ministry is on their side." Also PAC: Baby Mss. vol. 18 pp. 10577-82, Cuvillier to Heney 29 Mar. 1828.
- 5 DMss. 3/578, Col. Couper reported this to Dalhousie as Richardson's opinion of Gale, 29 Sep. 1828.
- 6 DMss. 3/210, Campbell of Blythsfield to Dalhousie 11 May 1828; DMss. 3/201, Gale to Dalhousie 22 Apr. 1828, Gale

- to Cochran 13 June, 31 Aug. 1828; Gale to Dalhousie 16 Oct. 1828; DMss. 3/550 p. 111, journal entry 20 Nov. 1828; DMss. 3/591, Gen. John Ramsay to Dalhousie 29 Mar., 6, 10 May, 14 June 1828. For an approving comment on Labouchère's speech see PAC: Baby Mss. vol. 18 pp. 10607-10, Cuvillier to Heney 5 May 1828.
- 7 PP 1828 (569) VII.375; see also sources listed above, note 6.
- 8 Dalhousie received written sympathy and support from Robert Christie (DMss. 3/121), Gale (3/201), Cochran (3/34B), Judge Kerr (3/224), Chisholme (3/21/84) and Richardson (3/97). For the Assembly's pleasure at the report, see H. Manning, Revolt of French Canada pp. 299-303.
- 9 DMss. 3/158, Fisher to Dalhousie 28 Sep. 1828 and DMss. 3/34B/113, Cochran to Dalhousie 10 Dec. 1828.
- 10 Chisholme, The Lower Canada Watchman; DMss. 3/121, Christie to Dalhousie 22 Feb., 21 Apr. 1829; 28 Jan. 1830, 31 Mar. 1832; DMss. 3/578, Couper to Dalhousie 24 Jan. 1829.
- 11 H.T. Manning, Revolt of French Canada, p. 309⁷.
- 12 The repeated expulsions of Christie are reported in his letters to Dalhousie, DMss., 3/121, 22 Feb. 1829, 28 Jan. 1830.
- 13 DMss. 3/578, Couper to Dalhousie 29 Aug. 1830.
- 14 DMss. 3/134, Simpson to Dalhousie 18 Mar. 1825.
- 15 For Fletcher see JHALC 1828-29 Appx. MM; Richardson thought the townships MPPs voted with the patriotes because the latter controlled appropriations for roads and public buildings; but Col. Couper reported the electors of the townships had fully endorsed the patriotes' view of the financial question. DMss. 3/97, Richardson to Dalhousie 29 Mar 1830, and 3/578, Couper to Dalhousie 14 Oct. 1829.

- 16 H.T. Manning, Revolt of French Canada, and "The Colonial Policy of the Whig Ministers, 1830-37", CHR vol. 33 nos. 3-4 (Sep.-Dec. 1952) pp. 203-36, 341-68; F. Ouellet, Histoire économique et sociale; P. Burroughs, Canadian Crisis and British Colonial Policy; P.A. Buckner, 'Colonial Office Government', D.G. Creighton, Commercial Empire.
- 17 NLS: Ellice Mss. E96 p. 109, Kempt to Ellice 9 Feb. 1829; DMss. 3/578, Couper to Dalhousie 25 Oct. 1828, 10 May 1830; DMss. 3/34B/182, Cochran to Dalhousie 29 May 1830.
- 18 For patronage, see CO 47/129-30, Blue books 1829-30; for Cuvillier's remark, DMss. 3/121, Christie to Dalhousie 14 Feb. 1829.
- 19 Hansard 3rd series vol. 1 cols. 429-71. Althorp's speech opening this debate noted William IV conceded new revenues to Parliament but received a smaller civil list than that of George IV.
- 20 1 & 2 Wm. iv cap. 23.
- 21 CO 42/252 fo. 221, Aylmer to Rice 2 Sep. 1834; also CO 387/8 p. 103, Aylmer to Sewell 18 Nov. 1834, on judicial patronage.
- 22 The correspondence on suspension of Stuart is collected in CO 42/247, 1831-33; see also CO 42/236 fo. 59, Aylmer to Goderich 5 Feb. 1832.
- 23 For Mondelet case, see CO 42/238 fo. 425, Aylmer to Goderich 29 Nov. 1832; and fo. 491, same to same 27 Dec. 1832.
- 24 CO 42/232 fos. 353-8, Aylmer to Goderich 20 ^{Apr.} ~~Mar.~~ 1831. *Also ibid.*
207, same to same, 28 Mar. 1831.
- 25 CO 42/252 fo. 292, 8 Oct. 1834; Aylmer came to this decision after the 1834 Select Committee failed to exonerate him explicitly.
- 26 CO 47/131-3 (Blue Books, 1831-3) show appointments of Philippe Panet (1831), Dominique Mondelet (1832) and Hugues Heney (1833); Panet resigned in 1832 on becoming a judge.

- 27 National Library of Ireland, Ms. 13376(2), draft instructions to an unnamed commissioner by Spring Rice.
- 28 H.T. Manning, Revolt of French Canada, p. 376.
- 29 DMss. 3/578, Couper to Dalhousie 20 Aug. 1829; but see the Ninety-two Resolutions, JHALC 1834, 21 Feb. 1834, nos. 49-51.
- 30 BM Add. Ms. 43236, Aberdeen Mss. ^{fos. 223-6}, "Confidential Memo on Canada affairs", 21 Jan. 1835, unsigned (R.W. Hay?) mentions Stanley's view of reuniting the Canadas.
- 31 P. Goldring, 'Lord Howick and Lower Canada 1830-1838', MA thesis, Dalhousie, 1971, pp. 68-75 describes creation of the Gosford commission.
- 32 C. Thibault, 'The Gosford Commission, 1835-37 and the French Canadians', MA thesis, Bishop's University (Sherbrooke, Quebec), 1963 gives the Canadiens reaction to the commission.
- 33 There is a good description of the collapse of the Sheriff's office at Montreal in PP 1837 (220) XLII.223.
- 34 DMss. 3/34B/207, Cochran to Dalhousie, 3 Aug. 1837.

Chapter 6

- 1 D.G. Creighton, Commercial Empire, pp. 267-289, 256-7.
- 2 CO 42/227 fos. 245-7, Gould to Murray 14 July 1829, with unsigned enclosure from Quebec dated 11 June 1829. For Robinson's correspondence see CO 43/71, ^{to} p. 49.
- 3 Montreal Gazette 9 June 1831; for the aversion to Thomson and Althorp see ibid., 8 Jan. 1835, Bliss to Auldjo 22 Nov. 1834.
- 4 D.G. Creighton, Commercial Empire, contains many references to the NACA's statements; other writers do little more than acknowledge its existence.
- 5 Montreal Gazette 20 Dec. 1834, quoting the Vindicator.
- 6 PAC: Sewell Mss., vol. 6 pp. 3315-20, Stephen to Sewell 3 Oct. 1829 mentions Labouchère's advice to the

- patriotes on the agency; for Viger, CO 42/2²⁴⁹~~79~~ passim, and CO 42/247 passim; also CO 43/75 ^{fos.} ~~pp.~~ 43-194 passim, especially ^{fo.} ~~p.~~ 112, Howick to Viger 9 Dec. 1831, expressing impatience at Viger's delays.
- 7 Grey Mss., journal of third Earl, entry 26 May 1834; also Cambridge University Library, Netherby Mss., microfilm, reel 30, Sir James Graham to Stanley 21 Jan. 1838. For Hobhouse on Roebuck, BM Add. Ms. 56561, Hobhouse journal entry 10 Aug. 1839.
- 8 See especially J.R. McCulloch, "Colonial Policy", Edinburgh Review (Dec. 1831) pp. 330-51; and more generally, L. Brown, The Board of Trade and the Free Trade Movement 1830-1842 (Oxford, 1958). For parliamentary inquiries, PP 1820 (269) III.381; PP 1820 (300) II.365.
- 9 For Bliss, see Dictionary of Canadian Biography, vol. 10; also CO 42/232 fo. 16, Aylmer to Goderich 11 Jan. 1831; for the quoted passage, see above note 2.
- 10 A. Aspinall, Three Early Nineteenth Century Diaries (London, 1952) pp. 50-5.
- 11 Ibid., p. 9.
- 12 Montreal Gazette 9 June 1831; biographical data is gleaned from the testimony members of these firms gave to the House of Commons Select Committee on the Timber Duties in 1835, PP 1835 (519) XIX, also PP 1833 (690) VI, 'Report of Select Committee on Manufacturing, Commerce and Shipping'. See below, bibliography, for a selection of titles of pamphlets written by or on behalf of the NACA and its member firms.
- 13 CO 42/246 fo. 221, R. Gillespie to Goderich 22 Oct. 1833; there may have been other correspondents than Moffatt.
- 14 L. Brown, Board of Trade and the Free Trade Movement pp. 51-5.

- 15 For the Irish, see for instance divisions on the Ten Resolutions of March-April 1837, in Hansard, 3rd series, vol. 38 cols. 216, 232, 248, 1767, which show no concerted opposition. Roebuck was not made the Assembly's paid agent until 1835, but allegedly had a tentative agreement with Viger during 1834 and worked especially hard during that year to win the paid appointment; CO 42/259 fo. 402, Gould to Gladstone 7 Apr. 1835.
- 16 For Dalhousie, CO 42/246 fo. 260, petition of "principal merchants engaged in the Trade to the Canadas", 21 Feb. 1833. For Hobhouse and Thomson see National Library of Ireland, Ms. 13376(2), Hobhouse to T.S. Rice 31 Oct. 1834; BM Add. Ms. 56558 p. 131, Hobhouse journal entry 14 May 1836; Grey Mss., third Earl's journal, entry 3 Jan. 1838. For periodicals, authors have been identified through The Wellesley Index to Victorian Periodicals 1824-1900, W.E. Houghton ed. (Toronto, 1966); see Blackwood's (June 1835) and Foreign and Quarterly Review (Jan. 1838).
- 17 H. Bliss, On Colonial Intercourse (London 1830) and CO 42/259 fo. 402, Gould to Gladstone establishes the link between the Herald and the leading members of the NACA; for government policy, see below, Chap. 10 note 13; for the Times, see Montreal Gazette 2 Dec. 1834, "The London Times Against the Clique."
- 18 Montreal Gazette 20 July 1835; NLS: Ellice Mss. E91, S. McGillivray to Ellice, 27 Sep. 1839; Hansard 3rd series vol. 27 cols. 774, 972 (2, 8 Apr. 1835) show both Robinson and Stewart voted against the tories and Stanley on Russell's Irish Church motions; in the election of a Speaker Stewart voted with the whigs and Robinson disavowed Peel while voting for Manners-Sutton, ibid., vol. 26, cols. 55-61. Stanley also voted for Manners-Sutton.

- 19 For details of Robinson's career, see W. Williams, Parliamentary History of the County of Worcester (Hereford 1897), G.P. Judd, Members of Parliament, 1731-1832 (New Haven, 1955), J.H. Philbin, Parliamentary Representation, 1832, England and Wales (New Haven, 1965); the Times, 28 July 1837 and 25 Sep. 1837. See also Hansard 1826-37, especially 3rd series vol. 8, cols. 772-3 (14 Oct. 1831) and vol. 36, cols. 1314-²³~~34~~ (6 Mar. 1837); also [E. Ryerson] A Canadian, The Affairs of the Canadas, in a series of letters (London, 1837) pp. 21-5.
- 20 PAC: Chapman Mss. vol. 2, letter to Vindicator 22 Mar. 1835; also J. Foster, Members of Parliament, Scotland... 1357-1882 (London, 1882) 2nd ed.; G.P. Judd, op. cit.; J.H. Philbin, op. cit. noted a weak Lonsdale interest in Lancaster; see also Hansard 3rd series 1834-37 passim, especially vol. 26 cols. 1013-15 (16 Mar. 1835) and vol. 36 cols. 1327-30 (6 Mar. 1837).
- 21 For Young, see Hansard 3rd series vol. 27 cols. 650-4 (2 Apr. 1835) and vol. 39 cols. 1478-82 (22 Dec. 1837); the Times counted him as a conservative in 1837 but noted he favoured shorter parliaments and might vote for the ballot; Times, 25 Sep. 1837. For Logan, see R. Campbell, The History of the St. Gabriel Street Presbyterian Church, Montreal (Montreal, 1887); Times, 1, 8, 11 and 21 July 1837; PAC: Derby Mss., Ninth Report of the NACA p. 14 mentions his death in 1839.
- 22 For Ellice, see two recent doctoral theses, J.C. Clarke, 'From business to politics: The Ellice Family 1760-1860', Oxford DPhil. 1973; also J.M. Colthart, 'Edward Ellice and North America', Princeton PhD, 1971. His ambivalence towards Canada after 1836 is most clearly expressed in NLS: Ellice Mss. E85 fo. 113, Ellice to Gerrard 24 July 1838, and PRO: Russell Mss., 30/22/3c fo. 438, Ellice to Russell 29 Aug. 1839. The scheme sent to cabinet in

1838 is available in Grey Mss., "Suggestions for a scheme for the future government of the Canadas" by E.E., 21 Dec. 1838.

- 23 Hansard 3rd series vol. 27 cols. 165-8, Aberdeen, (24 Mar. 1835); vol. 29 cols. 254-6, Ripon and Richmond, (6 July 1835).
- 24 H.T. Manning, "Who Ran the British Empire, 1830-1850?" Journal of British Studies vol. 5 (1965) pp. 88-121; for Howick on Aylmer, see Buckinghamshire R.O., D/MH/G, Howick to Goderich 4 Sep. 1832 and 4 Oct. 1832. For relations of government and NACA on minor points, see CO 43/80 ^{fo.} 115, Hay to Bliss 12 Mar. 1835; ibid., ^{fo.} 120, Gladstone to A. Gillespie 17 Mar. 1835; CO 43/82 ^{fo.} 61, Grey to Bliss 13 Nov. 1835; CO 43/86 ^{fo.} 2, Grey to R. Gillespie 6 May 1837. For Goderich, see his note, 10 Aug. 1832 on CO 42/240 fos. 207-8; also CO 42/259 fos. 361-3, Fifth Report of Managing Committee of NACA.
- 25 CO 42/233 fo. 245, Aylmer to Goderich 26 Aug. 1831; CO 42/246 fos. 260-73, petitions of Hart Logan and others to Goderich 21 Feb. 1833. For the Land Company, see below, Chap. 7.
- 26 CO 42/259 fos. 361-3, Fifth Report of Managing Committee; the Select Committee Report is PP 1834 (449) XVIII; the evidence was published in PP 1837 (96) VII; also Hansard 3rd series vol. 22 cols. 767-818, (15 Apr. 1834); also P. Goldring, 'Lord Howick and Lower Canada, 1830-1838', MA thesis, Dalhousie 1971, pp. 52-9.
- 27 Rice's papers do not make it clear on what basis he made his decision; he was not a member of the committee until after he became Colonial Secretary on 16 June 1834.
- 28 Grey Mss., third Earl's journal, entries 12, 26 May 1834.
- 29 IOL: Mss. Eur. F.140/195-7 (Amherst Mss.) has what is

probably a typical collection of the NACA's propaganda, including a pamphlet by the Scottish-Canadian editor Adam Thom, Nathaniel Gould's Practical Advice to Emigrants (London, 1834), J.C. Grant's Montreal speech against elective Legislative Councils, the Ninety-two Resolutions, and political editorials from the Montreal Gazette and Herald.

- 30 Montreal Gazette 14 Apr. 1836, Gould to Merritt, 19 Dec. 1832.
- 31 For dealings with Rice, see Quebec Gazette 22 Sep. 1834, Gillespie to Thom 23 July 1834; ibid., 1 Oct. 1834, Gould to Thom 4 Aug. 1834; Montreal Gazette 7 Oct. 1834, Gould to Thom 8 Aug. 1834; and CO 43/79 ^{fo} 104, Rice to Gould 29 July 1834. For the draft of instructions to an unnamed commissioner, see National Library of Ireland Ms. 13376(2); the despatch is evasive but advised that concessions to the Assembly beyond those in the 1828 Report ought to be counterbalanced by additional guarantees to the executive and British settlers.
- 32 Lady F. Balfour, The Life of George Fourth Earl of Aberdeen (London, 1923) pp. 17-20; BM Add. Ms. 43060 ^{fo} 185⁴, Wellington to Aberdeen 10 Dec. 1838; CO 42/259 fos. 340-2, Gould to Aberdeen 16 Jan. 1835; ibid., fos. 348-59⁴, R. Gillespie to Aberdeen 19-26 Jan. 1835.
- 33 Hansard 3rd series vol. 26 cols. 1013-18 (16 March 1835) and vol. 27 cols. 165-8 (24 Mar. 1835).
- 34 CO 42/259 fo. 401⁴, Gould to Gladstone 7 Apr. 1835.
- 35 PAC: Chapman Mss. vol. 2, letter to Vindicator, 1 Mar. 1835.
- 36 Montreal Gazette 2 Dec. 1834; Quebec Gazette 5 Dec. 1834; Times, 7 Feb. 1835; [A. Mallalieu], "The Canada Question", Blackwood's (June 1835) pp. 909-27. The Montreal Gazette reprinted this article in toto, 23 July 1835.
- 37 A. Macintyre, The Liberator: Daniel O'Connell and the

- Irish Party 1830-1847 (New York, 1965) pp. 132-3; and Grey Mss., third Earl's journal, entries 18, 20 Feb. 1835.
- 38 Montreal Gazette 8 Jan. 1835, Bliss to Auldjo 22 Nov. 1834; L. Brown, Board of Trade and the Free Trade Movement, pp. 50-55; P. Burroughs, Canadian Crisis and British Policy, pp. 60-80.
- 39 PAC: Chapman Mss. vol. 2, letter of 22 June 1835; Montreal Gazette 2 July 1834; PAC Neilson Mss. vol. 8, R.H. Gairdner to Neilson, 2 Apr. 1835 enclosing formal instructions; ibid., same to same 25 Apr. 1835.
- 40 CO 42/259 fos. 357-9, R. Gillespie to Aberdeen 26 Jan. 1835, enclosure dated 24 Dec. 1834; ibid., fos. 340-3, Gould to Aberdeen 16 Jan. 1835.
- 41 G.R. Young, Upon the History, Principles, and Prospects of the Bank of British North America (London, 1838); PAC: Roebuck Mss. vol. 9, Roebuck to Papineau 4 Sep. 1836.
- 42 Times 6 May, 13, 29, 30 June, 21 July 1836; Ryerson had introduced himself to the NACA's leaders on arrival in London; see PAC: Neilson Mss. vol. 9 p. 15, A. Gillespie to Neilson 6 Feb. 1836. For the Times' flexibility on Canada, see its leading article, 24 Oct. 1835.
- 43 See below, chap. 10 note 13; also CO 42/265 fos. 419-26, Gillespie to Glenelg 6 Dec. 1836; and CO 537/137 fos. 170 et. seq., James Stephen, Memorandum on Canada, 20 Dec. 1836.
- 44 CO 42/270, fos. 127-34, Sir C. Grey to Glenelg 16 Jan. 1837; fos. 135-42, same to same² 24 Jan. 1837; Hansard 3rd series vol. 36 cols. 1287-1862³ (6 Mar. 1837); the government's views are explained in detail in CO 43/33⁴ fos. 5-13, Glenelg to Gosford 6 Mar. 1837, with enclosures.
- 45 CO 42/276 fos. 88-96², 98-103, R. Gillespie to Glenelg, 29 Nov. and 21 Dec. 1837; for the bank charters, see

- CO 43/86 ^{fo.} 2, Grey to Gillespie 6 May 1837; ^{fo.} 7, same to same 12 May 1837, and ^{fo.} 21, same to Gillespie, Gould and Freer, 22 May 1837.
- 46 CO 42/289 fos. 134-51, Gillespie to Stephen 2 Jan. 1838; ibid., fos. 163-84, Moffatt to Glenelg 9 Jan. 1838; ibid., fos. 184-88, A. Gillespie to Grey 25 Jan. 1838.
- 47 Quebec Gazette 19 July 1837 noted Moffatt's departure; see also CO 42/291 fo. 341, Badgley to Glenelg 23 Apr. 1838, and fo. 35², same to same 31 July 1838. Also PAC: Durham Mss. vol. 25 p. 450, R. Gillespie to Durham 17 Apr. 1838; and PAC: Neilson Mss. vol. 9 p. 298, R. Gillespie to Neilson, 23 Apr. 1838, advising the constitutionalists to be as moderate as possible, avoiding large public meetings and restraining the more violent editors.
- 48 CO 42/289 fos. 224-6, Gillespie and Gould to Melbourne 24 Aug. 1838 enclosing resolutions dated 14 Aug.; copies were also sent to Wellington, Peel, Russell and Glenelg. For warmer relations, see CO 43/88 ^{91 fo.} 89 Grey to Gillespie 21 Dec. 1838; also CO 42/289 fo. 235, Gillespie to Glenelg 7 Dec. 1838.
- 49 Increased powers were urged on Glenelg by Gillespie in CO 42/289 fo. 235, 7 Dec. 1838; also CO 42/282 fo. 95, Durham to Glenelg 16 June 1838; CO 42/293 fo. 178 Colborne to Glenelg 31 Jan. 1839. Power was given to the Council to create local corporations with taxing power on 17 Aug. 1839 (2 & 3 Vict. cap. 53.)
- 50 Durham's Report is PP 1839 (3) XVII; see also CO 42/302 fos. 238-40, Gillespie and Bliss to Glenelg 4 Feb. 1839, and resolutions of NACA special meeting, CO 42/302 fo. 243, dated 25 Feb. 1839.
- 51 H. Bliss, An Essay on the Reconstitution of Her Majesty's Government in Canada (London, 1839) including pp. 17-94, draft bill for reuniting the Canadas.

- 52 Times 31 Aug. 1839, 12, 14 Sep. 1839; Morning Chronicle 30 Aug. 1839 and, for the passage quoted, 3 Sep. 1839. Thomson's chief line of defence, that he accepted the office at the urging of Edward Ellice, was indignantly repudiated by Ellice; see Colthart, 'Ellice and North America', pp. 271-4.
- 53 CO 43/95, 99, 100, 102, 103, 106-7, 111-12, passim., including CO 43/103 ^{to:} 35, Geo. Hope to R. Gillespie 16 June 1843, and CO 43/111 ^{to:} 225, B. Hawes to J. Dowie 11 June 1849, acknowledging petition against the Rebellion Losses Act.

Chapter 7

- 1 PP 1828 (569) VII.375, p. 6.
- 2 CO 42/233 fos. 163⁸/₁, Aylmer to Goderich 21 June 1831, with note, Stephen to Howick 3 Mar. 1832.
- 3 PP 1828 (569) VII.375, p. 276 for Neilson's testimony on this subject; see also PAC: Neilson Mss. vol. 29 p. 391, "Settlers Wanted".
- 4 A.J. Christie, The Emigrant's Assistant: Or Remarks on the Agricultural Interests of the Canadas (Montreal, 1821); C.F. Grece, Facts and Observations Respecting Canada, and the United States of America (London, 1819). In these years some seigneurs settled back concessions of their seigneuries with immigrants attracted by roads built under the Assembly's large-scale appropriation bills of 1815-17. JHALC 1820 Appx. C, II.
- 5 G.C. McGuigan, "Administration of Land Policy and the Growth of Corporate Economic Organization in Lower Canada 1791-1809", CHAR 1963, pp. 65-73." Also C. Bertrand, "Concession des Terres du Bas-Canada, 1796-1840", CHAR 1928, pp. 73-77, a superficial analysis of the grants of 3.1m acres to 7,900 individuals or associations.

- 6 N. MacDonald, Canada, 1763-1841: immigration and settlement; the administration of the imperial land regulations (London, 1939) is the most valuable secondary study; the two most valuable published primary sources are the report of the Gosford Commission, and Charles Buller's section on lands in Lord Durham's Report. Both are unpublished since the 1830s. See PP 1837 (50) XXIV, 201-14, 240-1, 253, 271-301; and PP 1839 (3) XVII Appendix B, which contains a convenient summary, pp. 4-8, of Lower Canadian land administration since 1791.
- 7 For Buller's opinion, ibid., p. 29; for Ellice, see Hansard 3rd series, vol. 54 col. 113⁵ (12 June 1840), "There must be a capitalist between the labourer and the farmer; and these land-jobbers, who were accused of buying land cheap, and selling it dear, were the very men that every new country ought to convet."
- 8 PAC: Durham Mss. vol. 23 p. 82.
- 9 [E.G. Stanley, 14th Earl of Derby] Journal of a tour in America 1824-1825 (London, 1930) p. 116.
- 10 For Ellice, see Montreal Gazette 9 Aug. 1836; for Richardson, JHALC 1826, Appx. H; for Felton, CO 42/222 fo. 65, Kempt to Murray 5 Feb. 1829, and G. Turcotte, Le Conseil Législatif de Québec 1774-1933 (Beauceville, 1933).
- 11 R.D. Hall, 'The Canada Company', PhD thesis, Cambridge 1974.
- 12 PP 1826 (404) IV, p. 220.
- 13 CO 42/187 fo. 108, Dalhousie to Bathurst 24 Apr. 1821.
- 14 PAC: Roebuck Mss. vol. 9 pp. 18-21, Roebuck to Papineau 4 Sep. 1836.
- 15 Le Minerve 14 Nov. 1831 argued that the settlement of the townships was a device similar to the proposed reunion of the Canadas to reduce the Canadiens to a minority in their old homeland, and urged the Assembly

to consider how harshly the British colonists would rule as a majority.

- 16 Montreal Gazette 27 Nov. 1832.
- 17 MacDonald, Emigration, pp. 269, 286-99. CO 42/235 fos. 187-8, "Prospectus of the Colonial Land Company"; ca. 18 Nov. 1831; CO 42/248 fos. 6-7, Gould's report to shareholders, 6 Feb. 1832.
- 18 CO 42/233 fo. 245, Aylmer to Goderich 26 Aug. 1831; Minerve 14 Nov. 1831.
- 19 Grey Mss., "Memorandum on the Canada Church" 2 Nov. 1831.
- 20 Howick's memo of a conversation with Goderich is endorsed on CO 42/248 fo. 4, Galt to Howick, 24 Feb. 1831.
- 21 A list, seriatim, of Howick's and Galt's letters would be needlessly tedious. Letters from the BALC to the Colonial Office, with internal memoranda by C.O. staff, were filed in CO 42/248 passim. Colonial Office letters to the company are included in the outgoing correspondence letterbooks, CO 43/76-77.
- 22 CO 42/236 fo. 299, Aylmer to Goderich, 13 April 1832.
- 23 CO 42/241 fo. 118, Aylmer to Goderich 16 Jan. 1833; also CO 42/237 fo. 118, same to same 16 June 1832.
- 24 Grey Mss., Ellice to Howick 4 Sep. 1832.
- 25 See Howick's undated note on CO 42/238 fo. 492, Aylmer to Goderich 26 Dec. 1832; this was the basis of CO 43/29 ~~fo.~~ 72, Goderich to Aylmer 14 Feb. 1833. See also ibid., ~~fo.~~ 82, same to same 7 March 1833.
- 26 PAC: Duvernay Mss., vol. 1 p. 427, Léon Gosselin (Quebec) to Duvernay, 18 Sep. 1832.
- 27 PAC: Barrie Mss., Aylmer to Barrie 11 Jan. 1833.
- 28 For Papineau's speech see Quebec Gazette 25 Mar. 1833; also CO 42/242 fos. 54-70, Aylmer to Goderich 18 Mar. 1833.
- 29 Republished separately as Sketch of the Trade of British America (London, H. Fisher, 1833).
- 30 CO 42/243 fo. 308, Aylmer to Goderich 22 May 1833.

- 31 See especially CO 43/29 ^{fo.} p. 132, Stanley to Aylmer, confidential, ~~18 Nov.~~ ^{8 Oct.} 1833; for Ellice see WSRO: Petworth Mss. 1068, Russell Ellice to Sir C. Burrell, 16 Jan. 1836.
- 32 The agreement was published in PP 1837 (220) XLII.223 pp. 1-4. See also CO 42/248 fo. 245.
- 33 CO 42/243 fo. 308, Aylmer to Goderich 22 May 1833.
- 34 CO 42/230 fo. 26, Kempt to Murray 4 July 1830.
- 35 PP 1837 (220) XLII.223 pp. 4-5.
- 36 CO 42/479 fo. ~~55~~ ⁶², Buller to Fraser, 1 Oct. 1838; also PAC: Durham Mss. vol. 23 p. 259, Davidson to Buller, 23 Sep. 1838.
- 37 Journals of House of Commons 1834, pp. 53, 85, 244 and 250. The Act passed as 4 Wm iv cap. 15.
- 38 For a summary of the company's affairs, see CO 47/118, fos. 154-78, memorandum by T.W. Clinton Murdoch, 11 March. 1839.
- 39 For refusal of small privileges see e.g. CO 43/81 ^{fo.} p. 143, G. Grey to Reid, 11 Aug. 1835; ^{fo.} p. 175, same to same ^{3 Sep.} ~~25 Aug.~~ 1835; ^{fo.} p. 176 same to same 4 Sep. 1835.
- 40 PAC: BALC Mss., vol. 1 pp. 108-22, Instructions from Court of Directors, 27 Jan. 1834.
- 41 Purchase near Trois Rivières, Quebec Gazette 12 May 1834 p. 1; at Sherbrooke, ibid., 2 June 1834; agency advertisement, Montreal Gazette 7 Oct. 1834 p. 2; mills, ibid., 11 Dec. 1834; eviction of St. Francis Courier, Quebec Gazette 26 Nov. 1834; the paper suppliers and stage company had already withdrawn credit.
- 42 Montreal Gazette 12 May 1835 p. 2, report of annual meeting of BALC.
- 43 Ibid., 21 Oct. 1834.
- 44 BALC, Second Report to the Proprietors (London, 1836) pp. 3-6; for the railroad, G. Tulchinsky, The River Barons: Montreal businessmen and the growth of industry and transportation 1837-53 (Toronto, 1977) p. 107.

- 45 Montreal Gazette, 10 May 1836; PAC: BALC Mss. vol. 1, p. 124 and 135, Directors to Commissioner, 14 May 1836 and 22 Apr. 1837.
- 46 BALC, Second Report (1836) p. 5.
- 47 F. Ouellet, Histoire economique et sociale, pp. 349, 601. Quebec Gazette, 1 June 1835 p. 2; the emigration agent's report is in PP 1837 (132) XLII, 15-43.
- 48 PAC: McCallum Mss. p. 110, A. McCallum to D. McCallum from Rouse's Point, 10 Dec. 1837; WSRO: Petworth Mss. 1068, Wyndham to Melbourne, 22 June 1838; E. Richards, The Leviathan of Wealth: the Sutherland Fortune In the Industrial Revolution (London, 1973) p. 247.
- 49 See CO 43/84 ~~p.~~ 61, Stephen to Bruyères 31 Aug. 1836; CO 47/118 Memo by T.W.C. Murdoch, 11 Mar. 1839.
- 50 PAC: BALC Mss. vol. 2 p. 279, Fraser and Webster to Colborne, 4 Apr. 1839; ibid., vol. 1 p. 133, Directors to Commissioners 14 Feb. 1837.
- 51 WSRO: Petworth Mss., 1068, Brydone to Sockett 25 Jan. 1836; PAC: BALC Mss. vol. 1 p. 133, Directors to Commissioners 14 Feb. 1837; PP 1837 (50) XXIV p. 40; PAC: BALC Mss. vol. 2 p. 279, BALC to Colborne, 4 Apr. 1839.
- 52 Ibid., vol. 1 pp. 108-22, Instructions, 27 Jan. 1834.
- 53 R.D. Hall, 'The Canada Company, 1826-1843', PhD thesis, Cambridge, 1974, p. 264.
- 54 WSRO: Petworth Mss. 1068, handbill "Lands for Sale", 1838; O.D. Skelton, The life and times of Sir Alexander Tilloch Galt (Toronto, 1966) p. 13.
- 55 NLS: Ellice Mss. E85, p. 78, Gerrard to Ellice 31 Jan. 1835; Montreal Gazette 12 May 1835.
- 56 BALC, Second Report (1836) p. 10; PP 1839 (3) XVII pp. 47, 184.
- 57 PAC: BALC Mss. vol. 1 pp. 131, 135, Directors to Commissioners, 27 Dec. 1836, 22 Apr. 1837; Montreal Gazette 17 May 1836.

- 58 PAC: Durham Mss. vol. 23 pp. 82-97, Kerr to (Buller?), 15 Aug. 1838; PAC: BALC Mss. vol. 2 p. 197, Forsyth, Price and Gairdner to Buller, 16 June 1838, re. proposed Mégantic Land Company.
- 59 CO 43/89 p. 11, Grey to Robinson 30 Mar. 1838; CO 42/280 fo. 405, Fraser and Webster to Rowan, 4 Apr. 1838; CO 42/282, fo. 317, Durham to CO, 31 July 1838.
- 60 CO 42/⁴280 fos. 146-9, Proposal of BALC, Canada Company and NACAI to CO, 26 Mar. 1841; PP 1839 (3) XVII, Lord Durham's Report, and ibid., Appendix B, Buller's report; see also CO 42/282 fo. 317, Durham to CO 31 July 1838.
- 61 CO 42/282 fo. ³³³~~317~~, Grey memo 22 Sep. 1838; for Thomson's report, see CO 42/309 fo. 98, Thomson to Russell 24 Mar. 1840.
- 62 Ibid., and PAC: BALC Mss. vol. 2 p. 330, summons signed by C.R. Ogden.
- 63 CO 42/480 fos. 26-35, Sydenham to Russell 5 July 1841.
- 64 Censuses of Canada 1665-1871 Vol. 4 (Ottawa, 1876) pp. 107, 144-8.

Chapter 8

- 1 Montreal Gazette 12 Jan. 1836.
- 2 For the mass meetings of 1837, see Quebec Gazette 10, 12, 14 July 1837 (Montreal), ibid., 2, 4 Aug. 1837 (Quebec), Montreal Gazette 24 Oct. 1837 (Montreal). The "national societies" attended each others church services en masse, e.g. Quebec Gazette 17 Mar. 1837 reporting Presbyterian and Anglican attendance at a Catholic Mass on St. Patrick's Day.
- 3 Quebec Gazette 30 Nov. 1835 lists the nineteen CAs.
- 4 For immigration see above, chapter 7 section ii. The meeting at Tattersall's took place 5 Apr. 1834; the

petition is in CO 42/251 fo. 348, Aylmer to Stanley 28 May 1834.

- 5 Quebec Gazette 5 Feb. 1836.
- 6 G. Bourque, Question nationale et classes sociales au Québec (1760-1840) (Montreal, 1970) p. 243.
- 7 For Stuart's report on tenures see JHALC 1820-21 Appx. U; for the attack of Sewell, Quebec Gazette 12 Feb. 1834.
- 8 Courier 22 Mar. 1836; Quebec Gazette 5 Apr. 1837; see also the proceedings of a thoroughly bipartisan meeting at Montreal on the state of education in the province, Quebec Gazette 12 Sep. 1836.
- 9 P. Goldring, 'The English-Language Press at Quebec, 1800-1841', Ottawa, Historic Sites and Monuments Board of Canada, Agenda Papers, Nov. 1976, pp. 357-91.
- 10 Quebec Gazette 20 Mar. 1835.
- 11 Quoted by [A. Thom] Anti-Bureaucrat, Remarks on the Petition of the Convention p. 191.
- 12 P. Burroughs, The Canadian Crisis and British Policy, pp. 60-71; F.M. Greenwood, 'Development of a Garrison Mentality'.
- 13 CO 42/244 fo. 325, Aylmer to Stanley 7 Dec. 1833; Quebec Gazette 5 Apr. 1833.
- 14 Quebec Gazette 30 Jan. 1833; Tattersall's meeting on 5 Apr., see Quebec Gazette 8 Apr. 1834; CO 42/242 fo. 380, Aylmer to Stanley 24 Apr. 1833; R. Christie, Late Province of Lower Canada vol. 4 pp. 236-41 has several useful tables analyzing the votes on the resolutions.
- 15 Quebec Gazette 11 Apr. 1835; PAC: Durham Mss. vol. 22 p. 658, Layfield to Durham [July?] 1838.
- 16 Quebec Gazette 5 May 1834; ibid., 12 May 1834 claimed that the Sherbrooke affair was a radical meeting turned around by constitutionalists; for Stanstead, ibid.,

- 18 June 1834, for Trois Rivières, ibid., 9 Apr. 1834.
- 17 R. Chabot, Le Curé Campagnard et la Contestation Locale au Québec de 1791 aux Troubles de 1837-38 (Montreal, 1975) p. 112.
- 18 For Quebec town and county, and Mégantic elections, see Quebec Gazette 19 Sep., 10, 13, 17, 22, 24, 27, 29, 31 Oct., 3, 17 Nov. 1834.
- 19 Townships elections, Quebec Gazette 10 Oct. 1834, Montreal Gazette 15, 18 Nov. 1834; Sorel, Montreal Gazette 12 Mar. 1835.
- 20 Montreal Gazette 18 Nov. 1834.
- 21 NLS: Ellice Mss. E85 fo. 64, Gerrard to Ellice 9 Oct. 1834.
- 22 This was probably the same John Donnellan who advertised as a seed merchant in 1835 (Montreal Gazette 6 June 1835).
- 23 Montreal Gazette 31 Oct. 1834.
- 24 West Ward contest: Montreal Gazette 7, 21, 23, 30 Oct., 4, 15, 18 Nov. 1834.
- 25 Second Tattersall's meeting, Montreal Gazette 22 Nov. 1834; Stuart's meeting, Quebec Gazette 29 Oct. 1834.
- 26 Minerve quoted in Quebec Gazette 14 June 1834; also ibid., 12 Dec. 1834.
- 27 Nelson, Montreal Gazette, 23 Oct. 1834; Rolland, Quebec Gazette, 29 Oct. 1834.
- 28 JHALC 1834 lists chairmen of committees; ibid., 1835-36 lists members returned in 1834 election. See also PAC: Duvernay Mss. vol. 2 p. 666, J.B. Boucher-Belleville to Duvernay, 4 Apr. 1835.
- 29 Quebec Gazette 29 Oct., 17 Nov. 1834; Courier 1 Mar. 1836.
- 30 Founding meeting of the Constitutional Union of Mechanics and Trademen, Quebec Gazette 10 Dec. 1834; the chairman was George Black, a ship-builder formerly of Aberdeen.
- 31 M. Bliss, A Living Profit; Studies in the Social History of Canadian Business, 1883-1911 (Toronto, 1974).

- 32 W. Badgley, Remarks on Register Offices (Montreal, Nov. 1836); for U.S. land buyers, see Quebec Gazette 10, 12 Aug. 1835; Montreal Gazette 15 Aug. 1835, and NLS: Ellice Mss. E85, Gerrard to Ellice 20 Aug. 1835; for the 1820s, see Montreal Herald 22 Nov. 1823, "Register Offices", and printed report of debate on Vallières' bill, 28 Feb. 1827, in DMss. 3/622.
- 33 Quebec Gazette, 21, 23 Nov. 1836.
- 34 Ibid., 3 Aug. 1835.
- 35 For parades and banners, see Montreal Gazette 12 Jan. 1836 and 24 Oct. 1837; for mechanics, Quebec Gazette 10 Dec. 1834, 23 Dec. 1835, 6 Jan. 1836.
- 36 For major figures see A. Beaulieu and J. Hamelin, La presse Québécoise des origines à nos jours, Tome I, 1764-1859 (Quebec, 1973); see the following sources for minor figures; Weir was a founder of the "British Rifle Corps" late in 1835, see R. Christie, Late Province of Lower Canada vol. 5 pp. 142-3; for his business connexions, see PAC: Neilson Mss. vol. 176, R. Weir Jr. to Neilson and Cowan 23 June 1834; R. Weir Sr. to same, 9 May 1835; for Walker, ibid., vol. 9 p. 93, Walker to Neilson 3 Sep. 1836; for Barber PAC: Durham Mss. vol. 26 p. 682, Gosford to Durham 30 June 1838; for resolutions of MCA disavowing the Press, Montreal Gazette 1 Mar. 1836.
- 37 "Declaration of the causes which led to the formation of the Constitutional Association of Quebec", Quebec Gazette 12 Dec. 1834; "To men of British or Irish descent" from MCA, Montreal Gazette 8 Jan. 1835; for Frampton and St. Francis, ibid., 14 Feb. 1835; for Stuart, Quebec Gazette 3 Aug. 1835; for Morin, ibid., 9 Dec. 1835.
- 38 Montreal Gazette 1 Mar. 1836; Courier 29 Mar. 1836; ibid., 25 Feb. 1836.

- 39 "Declaration of causes", paragraph 8; Gagy objected to this paragraph, Quebec Gazette 12 Dec. 1834; for quarrel with Courier, see ibid., 12 Oct. 1835; for Bowen, ibid., 15 Feb., 23 Mar. 1836; Thom's Montreal Herald also supported Bowen, whose chief offence seemed to be returning judgements hostile to Gagy's clients; Quebec Gazette 25 Mar. 1836.
- 40 Courier 15 Mar. 1836; even Neilson was provoked to threaten annexation during discussion of the timber duties; PAC: Neilson Mss. vol. 12 pp. 496-504, circular to Labouchère and Lords Glenelg, Sandon and Aberdeen, 10 July 1835.
- 41 See for instance Grey Mss., Lord Howick's paper on Canada, with comments by Lord John Russell, 29 Dec. 1837, in which Howick noted that the constitutionalists wanted the Legislative Council reformed but had never proposed changes they considered acceptable.
- 42 R. Christie, Late Province of Lower Canada vol. 4 p. 95; Courier 27 Aug. 1835.
- 43 For correspondence on the contingencies question, see CO 47/119 fo. 415, marginal note by Lord Howick; and CO 43/30 ^{fo.} p. 143, Glenelg to Gosford 17 July 1835; also Quebec Gazette 21 Nov. 1836 for protest against Gosford's preoccupation with the supply bill.
- 44 Rifle corps: R. Christie, Late Province of Lower Canada vol. 4 pp. 142-9; mechanics, Quebec Gazette 6 Jan. 1836; Mississquoi CA, Montreal Gazette 20 Feb. 1836; Doric Club, Courier 22 Mar. 1836; for "tories", Courier 29 Mar. 1836.
- 45 P. Burroughs, Canadian Crisis and British Policy p. 77; also Quebec Gazette 14 Mar. 1836.
- 46 Most Presbyterians were willing to accept a share of the endowment. For Presbyterianism in this period, see W.S. Reid, The Church of Scotland in Lower Canada, Its

Struggle for Establishment (Toronto, 1936) and R. Campbell, The History of the St. Gabriel Street Presbyterian Church, Montreal (Montreal, 1887).

- 47 PAC: Neilson Mss. vol. 9 p. 66, Walker to Neilson 23 Apr. 1836, and p. 101, same to same 9 Sep. 1836; for MCA on endowments see R. Christie, Late Province of Lower Canada vol. 4 p. 284. For Moffatt's resignation, Montreal Gazette 31 May 1836; the Gazette endorsed his stand.
- 48 Petition: Quebec Gazette 26 Aug. 1836; founding meeting, Courier, 15 Sep. 1836; see also Anon., Prospectus of the Plan and Principles of a Society, which is Proposed to be formed at Montreal, for the Attainment and Security of Universal and Perfect Religious Equality and Freedom (Montreal, 1836); and Quebec Gazette 14, 16 Dec. 1836.
- 49 Farmer's Advocate quoted in Quebec Gazette 28 Dec. 1836; PAC: Taylor Mss., Elliot to Taylor 24 Oct. 1835; Clapham on Roebuck, Quebec Gazette 20 Mar. 1835; his Mégantic meeting, ibid., 6 Apr. 1836; Stanstead, Quebec Gazette 20 Jan. 1837.
- 50 JHALC 1834, 21 Feb. 1834, 37th resolution.
- 51 Montreal Gazette 16 Dec. 1834; Quebec Gazette 30 Nov. 1836 for Stuart and Aylwin; ibid., 10 Mar. 1834 for Duval; Courier 8 Mar. 1836.
- 52 For the origins of the Select General Committee see Montreal Gazette 8 Dec. 1835, 28 Jan. 1836; Quebec Gazette 30 Nov. 1835, 5, 12 Feb. 1836; PAC: Neilson Mss. vol. 9 p. 17, List of Executive Committee members to co-ordinate formation of Ward Vigilance Committees; some early correspondence was published in Quebec Gazette 7 Dec. 1836.
- 53 Montreal Gazette 8 Dec. 1835.
- 54 Quebec Gazette 14 Mar. 1836, 9 Dec. 1835, 22 July 1837. E.P. Thomson, The Making of the English Working Class

- (London, 1968 ed.) pp. 494-5 has a useful passage on the way Napoleon's rise undermined British republicanism.
- 55 The candidate was John Munn, probably the same John Munn who was active in the Mechanics Constitutional Union and the Mechanics Institute. Quebec Gazette 17 July 1837 analyzed the poll-book and found 58 Irish and 8 other English-speaking electors voted for Munn's opponent, Connolly, who garnered about 600 votes.
- 56 PAC: Neilson Mss. vol. 9 p. 28, Walker to Neilson 3 Mar. 1836: "Similar privations are not unknown in the Sister Province" and parts of Scotland and Ireland were worse; PAC: Young Mss., vol. 8, Pemberton to Young 3 Mar. 1836 revealed the split in the QCA executive; from Montreal Gerrard complained that "too many hands" had got into drafting the MCA's tenure resolutions; see NLS: Ellice Mss. E85, Gerrard to Ellice 31 Jan. 1836; for the resolutions see Montreal Gazette 1 Mar. 1836; resolutions 3-4; for QCA resolution on tenures, Quebec Gazette 7 Dec. 1836.
- 57 PAC: Neilson Mss., vol. 9 p. 39, Walker to Neilson 17 Mar. 1836; Quebec Gazette 29 Aug. 1836.
- 58 St. Armand, Montreal Gazette 20 Feb. 1836; Sherbrooke, Quebec Gazette 1 Apr. 1836.
- 59 Sherbrooke CA in Montreal Gazette 20 Feb. 1836.
- 60 Quebec Gazette 14 Nov. 1836.
- 61 For Aylwin, Quebec Gazette 16 Mar. 1836; for Andrew Stuart on the St. Lawrence, Montreal Gazette 13 Feb. 1838.

Chapter 9

- 1 A useful summary of the course of the rebellions is in M. Wade, The French Canadians 1760-1967 (Toronto, 1968) Vol. 1 pp. 169-95.

- 2 Henry Taylor of the Colonial Office argued for suspension of Jamaica's constitution before the blacks should control the Assembly and mismanage affairs more than the whites were doing. See his Autobiography (London, 1885) vol. 1, pp. 242-68. See also Hansard 3rd series vol. 47, cols. 765-71 (3 May 1839).
- 3 A. Perrault, "Le Conseil spécial, 1838-1841", Revue du Barreau III (1943) pp. 130-44, 213-30, 265-74 and 299-307.
- 4 Grey Mss., journal of third Earl, entries for 1, 2 and 9 Jan. 1838; Lord Melbourne's Papers ed. L.C. Sanders (London, 1889) p. 423, Howick to Melbourne 29 Dec. 1837; PRO: Russell Mss. vol. 3A, Howick to Russell 1 Jan. 1838 and Russell's undated reply, ca. 2 Jan. 1838.
- 5 Above, chapter 6 section iv; the Act was 1 & 2 Vict. cap. 9.
- 6 CO 43/33 ^{p.} 192, Glenelg to Colborne 19 Feb. 1838; CO 43/280 fo. 272, Colborne to Glenelg 31 Mar. 1838.
- 7 Montreal Gazette 5 Apr. 1838.
- 8 Cape rules: CO 43/33 ^{fo.} 192, Glenelg to Colborne 19 Feb. 1838 (enclosure); membership: PAC: Colborne Mss., micro-film, reel G, undated memo, and PAC: Durham Mss., vol. 6 pp. 522-64, anonymous memoranda on Special Councillors.
- 9 Apart from examples of this trend scattered throughout the preceding chapters, mention might also be made of the election of three new directors of the Quebec Bank in 1836, when two directors with Scottish surnames were replaced by Canadiens: Quebec Gazette, 16 Mar. 1836. At the "Great Loyal Meetings" of 1837 (referred to above, Chap. 8) the principal speeches were either delivered in French or translated by prominent French-Canadians.
- 10 For biographies, see the memoranda prepared for Lord Durham (this chapter note 8) and G. Turcotte, Le Conseil Législatif de Québec, 1774-1933 (Beauceville, 1933); for Stuart, F-J Audet, Les Juges en Chef de la Province de

Québec, 1764-1824 (Quebec, 1927); for Daly, Ogden, and Day, see W. Notman and F. Taylor, Portraits of British Americans (Montreal, 1867); for Moffatt, Hale and Mayrand, Dictionary of Canadian Biography vols. 9-10; for A. Dionne, see R. Martin, Saint-Roch-des-Aulnaies -- Les Seigneurs, - Le Manoir, - Le Moulin Banal, - Les Anciennes Maisons de Pierre (La Pocatière, P.Q., 1975). See also F-J Audet, "John Neilson", TRSC 1928, I, pp. 81-97, and A. Shortt, "Peter McGill"; G. Tulchinsky, The River Barons has scattered references to several Special Councillors from Montreal, passim.

- 11 Above, chapter 8 section ii.
- 12 CO 42/279 fo. 15, Gosford to Glenelg 5 Jan. 1838 mentions Stuart's application on behalf of Cherrier and Pelletier; also Quebec Gazette 13 Dec. 1837. See CO 42/276 fo. 10⁶, ^{Goult} ~~Gillespie~~ to Glenelg ¹³ ~~24~~ Dec. 1837 for a strong recommendation of Stuart's abilities.
- 13 CO 45/125 consists of journals of five sessions of the Special Council; see also C. Grey, Crisis in the Canadas, 1838-1839: The Grey Journals and Letters, ed. W.G. Ormsby (London, 1964) pp. 111-12, Charles Grey to second Earl Grey 24 Aug. 1838.
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- 15 CO 42/293 fo. 46, Colborne to Glenelg 15 Jan. 1839; CO 42/302 fos. 238-40, R. Gillespie and H. Bliss to Glenelg 4 Feb. 1839.
- 16 PAC: Colborne Mss., microfilm, reel P.
- 17 The Arthur Papers ed. C.R. Sanderson (Toronto, 1957)

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- 18 G.P. Scrope, Memoir of the Life of the Right Honourable Charles Lord Sydenham, G.C.B. (London, 1843) and A. Shortt, Lord Sydenham (Toronto, 1908) are the only substantial biographies. Journals of Thomson's first (November, 1839) session of the Council are in CO 42/297 fos. 170 et seq., Thomson to Russell 18 Nov. 1839.
- 19 PAC: Colborne Mss., microfilm, reel Q, John Eden to Colborne (Lord Seaton) 4 May 1840. The despatch referred to is the celebrated one on official tenures, CO 43/35 ^{Pos.} pp. 52-5, Russell to Thomson 16 Oct. 1839.
- 20 Montreal Gazette 19 Nov. 1839; CO 42/302 fos. 288-92, Gillespie to Russell 11 Dec. 1839, enclosing letter dated Montreal, 12 Nov. 1839.
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- 22 CO 45/125 part (i) pp. 50-58; ibid., p. 29; ibid., pp. 94-100; ibid., part (iii) pp. 70-72.
- 23 Letters from Lord Sydenham to Lord John Russell, ed. P. Knaplund (London, 1931) p. 106, Thomson to Russell 20 Dec. 1840.
- 24 In Colborne's last session and Thomson's first, 29 ordinances were referred to 22 "Special Committees"; Gerrard sat on 12, Neilson on 11, and Quesnel on 10, including 5 on which the three men sat together.
- 25 The official copies of ordinances in CO 44/33-38 are simply numbered 1-197, the style used in this chapter. Some ordinances also were numbered in conventional legislative fashion but this is potentially confusing since Colborne's second session duplicated the titles used by Durham's Council, 2 Vic. cap. 1 to cap. 6.

- 26 CO 42/294 fo. 287, Colborne to Normanby 19 Apr. 1839.
- 27 PAC: Durham Mss., vol. 6 pp. 596-600, Stuart to Turton 8 June 1838; Letters of Lord Sydenham, ed. Knaplund, p. 101 Thomson to Russell 24 Nov. 1840.
- 28 McGill: CO 45/125, pp. 52-55; for Roebuck, see CO 43/35 p. 3, Normanby to Colborne 7 June 1839, and CO 42/310 fo. 88, Thomson to Russell 9 May 1840; for the tribunals ordinance, see CO 45/125 part (iii) pp. 47-8, 53-6, and 58 (22-28 Nov. 1838).
- 29 CO 42/289 fo. 163, Gillespie and Moffatt to Glenelg 9 Jan. 1838.
- 30 There is a specific reference to this money in the British Act 1 & 2 Vic. cap. 9, sec. iv; the money was repaid by Ordinance No. 11; see the Montreal Gazette 1 May 1838.
- 31 For most of the official documents see CO 42/281 fos. 201-311, Colborne to Glenelg 14 Dec. 1838; contemporary opinion is given in R. Christie, Late Province of Lower Canada vol. 5 pp. 278-83. Normanby's hesitation is expressed in CO 43/35 p. 12, Normanby to Colborne 10 ^{Jul.} Aug. 1839; Vallières' rehabilitation is discussed in J. Monet, Last Cannon Shot p. 99.
- 32 CO 45/125 part (i) pp. 94-100, 5 Apr. 1838.
- 33 Montreal Gazette 5 Apr. 1838.
- 34 Official Quebec Gazette 28 June 1838; Colborne's ordinances were nos. 100 and 111. The latter was made permanent by no. 151. Thomson's chief alteration to the Board of Works was to give it a permanent chairman, employed full-time and forbidden to hold other office.
- 35 CO 42/282 fo. 95, Durham to Glenelg 16 June 1838; CO 42/293 fo. 178, Colborne to Glenelg 31 Jan. 1839 and CO 42/294 fo. 17, same to same 15 Mar. 1839. The Executive Council report enclosed in this last despatch proposed an imperial guarantee for a large loan to complete public works, a proposal which afterwards formed the basis of an important secret instruction to Thomson.

- 36 Letters of Lord Sydenham, ed. Knaplund, p. 62, Thomson to Russell, 5 May 1840; National Register of Archives: Broadlands Mss., GC/TH/19, Thomson to Palmerston 5 Sep. 1840.
- 37 Railway ordinances: 153, 157, 174; toll roads and bridges, 175, 185, 186, 163, 180, 184; water transport: 23, 26, 108, 118, 126, 169, 176.
- 38 CO 42/294 fos. 162-256, Colborne to Normanby 13 Apr. 1839 contains brief descriptions of most of the ordinances 48-114; for Thomson's remark, see Letters of Lord Sydenham ed. Knaplund, p. 52, Thomson to Russell 13 Mar. 1840; police ordinance: Montreal Gazette 28 June 1838; See also Perrault, "Le Conseil spécial", pp. 213-30 and 265-74.
- 39 PAC: Taylor Mss., Elliot to Taylor 4 Apr. 1836.
- 40 Ordinance 168; also A. Shortt, Lord Sydenham p. 276.
- 41 Ordinances 52, 93, 104 and 138 tried to deal with the currency. Two useful summaries of contemporary problems are in CO 42/302 fo. 277, Russell Ellice to Normanby 1 Aug. 1839, and G.R. Young, Upon the History, Principles, and Prospects of the Bank of British North America; also PAC: Neilson Mss. vol. 38 p. 823, Cuvillier to Neilson 13 Feb. 1839.
- 42 Ordinances 96, 105, 137, 144, 145, 165, 183 and 190. For opposition, see Montreal Gazette 21 Apr. 1840, "Report of the Committee of the Montreal Bar, on the Project of the Judicature Ordinance..." Monet noted Bagot's abandonment of the plan in 1842, Last Cannon Shot, p. 98.
- 43 C. New, Lord Durham's Mission to Canada (Toronto, 1963) pp. 74-5 and G. Martin, The Durham Report and British Policy, pp. 4-29. Important contemporary sources are CO 42/282 fos. 175-93, Durham to Glenelg 29 June 1838; Lord Melbourne's Papers ed. L.C. Sanders p. 430,

Melbourne to Durham 19 Aug. 1838; Buller's letters to Durham are in PAC: Durham Mss. vol. 26 pp. 631-57; copies of the prisoners' statements were published in Bermuda and are given in full by Christie, Late Province of Lower Canada, vol. 5 pp. 164-86. For unreliability of canadien juries, see The Arthur Papers, ed.

C.R. Sanderson, vol. 1 p. 115, Colborne to Arthur 11 May 1838; and CO 42/283 fo. 159, Durham to Glenelg 12 Sep. 1838, reporting the acquittal of notorious murderers by a jury from which British colonists had been excluded.

- 44 The Indemnity Act was 1 & 2 Vic. cap. 112; see also CO 42/283 fo. 260, Durham to Glenelg 28 Sep. 1838.

Lord Holland's remarks are more apt than the condemnations of many historians. "Resistance would have been fruitless -- & resignation upon being beaten would have left us with little or no support, Durham with no protection & the colonies almost without a government." BM Add. Ms. 51870 p. 1076, journal entry for June-Aug. 1838.

- 45 The principal secondary source on this problem is G. Baillargeon, "La Survivance du Régime seigneurial à Montréal: Un Régime qui ne veut pas mourir" (Ottawa, 1968). See also CO 42/²⁶⁹~~270~~, fifth report of the Gosford Commission, and CO 42/299, appendix E of Lord Durham's Report. Both reports were published in the Parliamentary Papers but have not been republished. See also CO 45/125 (iv) pp. 105, 122-32; Montreal Gazette 10 and 12 July 1838; for later developments, CO 42/309 fos. 46-⁴⁹~~60~~ and CO 42/477 fo. 90, Thomson (Sydenham) to Russell, 13 Mar. 1840 and 20 Jan. 1841.

- 46 CO 42/269, General Report of the Gosford Commission, pp. 39-42 (recommendations) and 60-144 (evidence); CO 45/125 part (iv) pp. 158-61; also Letters of Lord Sydenham, ed. Knaplund, p. 101, Thomson to Russell 24 Nov. 1840.

- 47 PAC: Colborne Mss., microfilm, Reel Q, Seaton's memorandum for Melbourne on Canadian Union, 20 June 1840; Letters of Lord Sydenham, ed. Knaplund, p. 36, Thomson to Russell 25 Nov. 1839.
- 48 James Stephen sent all ordinances to the Law Officers; normally he only forwarded Acts he considered defective. (CO 42/310 fo. 375, memo 16 July 1840). The Council's permanent ordinances after 1839 could only be ratified by Order-in-Council after lying thirty days before both Houses of Parliament, and either House could veto an ordinance by an address to the Crown. See also CO 43/36 ^{fo.} p. 58, Russell to Sydenham 17 Mar. 1841.
- 49 For Dionne, see PAC: Duvernay Mss., vol. 4 p. 1549, E.E. Malhiot to Duvernay 18 Sep. 1839; for Casgrain, see A. Gérin-Lajoie, Dix Ans Au Canada de 1840 à 1850: Histoire de L'établissement du Gouvernement Responsable (Québec, 1888) pp. 33-4.
- 50 Montreal Gazette 13 Feb. 1841; anti-Unionist petition against 20 ordinances, CO 42/311 fo. 102, Sydenham to Russell 4 Aug. 1840.

Chapter 10

- 1 PAC: Duvernay Mss. vol. 4 p. 1635, Drolet to Duvernay 8 Nov. 1839.
- 2 J. Stuart, Letter to His Majesty's Under Secretary of State (London, 1824) p. 16. For Walker, see Montreal Gazette 31 Oct. 1834, "Let us then cease to be a population of divided interests, let us endeavour to constitute ourselves one people. This is the only true reform, the only general source of popular power."
- 3 For Cuvillier, see especially A. Shortt, "Founders of Canadian Banking: Austin Cuvillier, Merchant, Legislator and Banker", JCBA vol. 30 (1929) pp. 304-16. Sabrevois

delivered the French version of Moffatt's speech at the Great Loyal Meeting in Montreal, Quebec Gazette 10 July 1837; and see his Réfutation de L'Ecrit de Louis-Joseph Papineau... Intitulé Histoire de L'Insurrection du Canada (Montreal, 1839); for Viger, see his Analyse d'un Entretien sur la Conservation des Etablissements du Bas-Canada (Montreal, 1826), especially p. 44.

- 4 Aristotle, A Treatise on Government trans. W. Ellis MA, (London, 1776) p. 361. (The Politics, book 7 chapter 7); R. Benedict, Race and Racism (London, 1942); D.O. Mannoni, Prospero and Caliban; the Psychology of Colonization (London, 1956); P. Mason, Patterns of Dominance (London, 1970); A. Memmi, The Colonizer and the Colonized (London, 1974).
- 5 P. Burroughs, review of C. New, Lord Durham, CHR vol. 52 no. 2 (June 1971) pp. 190-1; and Canadian Crisis and British Policy, p. 94. The use of the term "Racism" was further confused by E. Nish, Racism or Responsible Government: The French Canadian Dilemma in the 1840s (Toronto, 1967); on p. 2 Nish defended her use of the term "racism" as a description of the separatist Canadiens' position.
- 6 PAC: Durham Mss. vol. 37 p. 48, Derbshire to Buller 13 June 1838; Thom was quoted in A. Sweeny, George-Etienne Cartier: A Biography (Toronto, 1976) p. 41.
- 7 Observations on the Proceedings and Composition of the Present House of Assembly of Lower Canada (Montreal, 1835) pp. 28-9.
- 8 Differences between the nationalities are particularly discussed above in chapter 2, sections ii, v; chapter 3 section i; chapter 7, section ii; chapter 8, section ix.
- 9 Hansard 3rd series vol. 52, cols. 1326-7 (23 Mar. 1840) Throughout this chapter the word "liberal" (a rather amorphous term in any period) is used to refer to writers

or politicians who supported the whig ministries of the thirties, were not former Canningites, and generally supported the philosophical radicals on at least one of the principles on which the radicals differed with cabinet policy -- the ballot, Corn Laws, etcetera.

N. Gash devoted several pages to a description of liberals as, in Russell's phrase, "Whigs in party and Radicals in opinion" in the Parliaments of 1835-41: Gash, Reaction and Reconstruction in English Politics, 1832-1852 (Oxford, 1965) pp. 161-79.

10 PP 1828 (569) VII.375, p. 44 (Ellice) and pp. 244-7 (Stephen).

11 Lord Gosford, Hansard 3rd series vol. 55 cols. 246-7 (30 June 1840).

12 Hansard 3rd series vol. 40 cols. 7-42, Lord John Russell (16. Jan. 1838); ibid. cols. 65-80, Peel, same date.

13 For these plans see Grey Mss., Colonial Office memo on Canada 15 Nov. 1836; ibid. Colonial Office memo on Canada 20 Dec. 1836; CO 47/120 fos. 348-408, draft bills for Canadian government, n.d. [Dec. 1836] and 19 Jan. 1837; and CO 42/270 fos. 124-43, Sir Charles Grey to Glenelg, 16, 24 Jan. 1837.

14 For Russell, see Hansard 3rd series vol. 52 cols. 1326 (23 Mar. 1840); for Ellenborough, ibid. vol. 52 col. 568 (9 July 1840).

15 Versions of Horton's bill are in PP 1822 (475) III.1809, (592) III.1833, and (616) III.1849.

16 See the Reunion Act, 3 & 4 Vic. cap. 35, sections 12 (representation) and 41 (language).

17 Hansard 3rd series, vol. 49 cols. 167-71, Peel (11 July 1839). The Act was 2 & 3 Vic. cap. 53.

18 For Lansdowne, Hansard 3rd series vol. 55 col. 253 ^{9 July} (30 June 1840); for Ashburton ibid., col. 571 (9 June

- ~~1840)~~ for O'Connell ibid. vol. 48 col. 1198 (4 July 1839).
- 19 D.G. Creighton, Commercial Empire, p. 323.
- 20 For Thomson see BM Add. Ms. 56560 p. 28, Hobhouse journal entry 21 Nov. 1838; for Ellenborough, PRO 30/12/28/6, political journal p. 170, entry 30 Dec. 1837.
- 21 Ellenborough's papers are the single most valuable private collection of papers on tory reaction to the crisis of 1838-40. PRO 30/12.
- 22 Hansard 3rd series vol. 55, cols. ⁵⁶³⁻⁴561-66 (9 July 1840).
- 23 The importance of Durham's recommendation is concisely stated in CO 42/311 fo. 325, Thomson to Russell 16 Sep. 1840 and in CO 43/35 ~~fo. 29~~^{fo. 21}, Russell to Thomson 7 Sep. 1839.
- 24 Grey Mss., Charles Grey to Howick 26 June, 12 Dec. 1838, 14 Jan. 1839.
- 25 PRO: WO 80/4, Murray Mss., Lord Seaton to Sir George Murray 6 Sep. 1841.
- 26 NLS: Ellice Mss. E85 fo. 113, Ellice to Gerrard 24 July 1838.
- 27 BM Add. Ms. 56560, ^{fo. 113,} Hobhouse journal entry 30 Mar. 1839.
- 28 Hansard 3rd series vol. 48 cols. 1201-2, Buller, and 1204-5, Leader, (4 July 1839).
- 29 Milton was quoted by C. Hill, God's Englishman: Oliver Cromwell and the English Revolution (London, 1973) p. 200.
- 30 Report of the Public Archives for the Year 1923 (Ottawa, 1924) pp. 338-40, Howick to Durham 7 Feb. 1839; for Wakefield, see J. Monet, Last Cannon Shot, pp. 112-13.
- 31 For Adam Ferrie's municipal reputation as a "champion of popular rights" in Glasgow before he emigrated in 1829, see R. Campbell, History of the St. Gabriel St. Church pp. 474-7.

Chapter 11

- 1 For surveys of the 1840s see M. Wade, The French Canadians vol. 1, pp. 220-75; D.G. Creighton, Commercial Empire, pp. 335-85; and for a valuable specialized study of French-Canadian nationalism in the forties, J. Monet, Last Cannon Shot. For the imperial view, W.P. Morrell, Colonial Policy of Peel and Russell. A valuable collection of essays is A. Faucher, Historie economique et unite canadienne (Montreal, 1970).
- 2 E. Nish, Racism or Responsible Government; P.G. Cornoll, The Alignment of Political Groups in the Province of Canada, 1841 to 1867 (Toronto, 1962). For the successful wooing of Benjamin Holmes, see Monet, Last Cannon Shot, pp. 113-14.
- 3 This phrase is used by A. LeFebvre, La MONTREAL GAZETTE et le nationalisme canadien (1835-1842) (Montreal, 1970) p. 205.
- 4 A.G. Dorland, "The Republican Tradition in the British Empire and the Commonwealth", Presidential Address, TRSC XLIV Ser. III (June 1950) Section 2, pp. 1-18, especially p. 3, "The idea of a nation as a unit in human society had little weight in politics until after the French Revolution" and the "rights of one homogenous, self-contained community as against another" developed gradually after the American Revolution. In the 1830s Lower Canada was neither homogenous nor self-contained.

Bibliography

A complete bibliography of the social and political history of Lower Canada and the relevant aspects of British policy between 1820 and 1841 would be longer than this thesis itself. Most sections of this bibliography are therefore limited to works which were not only consulted but also mentioned in the footnotes. A few exceptions have been made, chiefly contemporary pamphlets.

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